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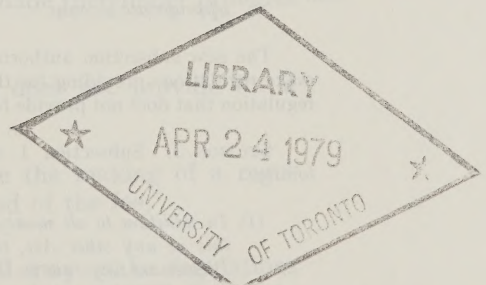
BILL 51

3RD SESSION, 31ST LEGISLATURE, ONTARIO
28 ELIZABETH II, 1979

Legislative Assembly

**An Act to amend
The Financial Administration Act**

THE HON. F. S. MILLER
Treasurer of Ontario and Minister of Economics



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTES

SECTION 1. Section 12 of the Act now reads as follows:

12.—(1) *The Treasurer, when he considers it advisable for the sound and efficient management of public money or of the public debt or of any sinking fund, may from time to time and on such terms and conditions as he considers advisable, purchase, acquire and hold,*

(a) *securities issued by or guaranteed as to principal and interest by Ontario, any other province of Canada, Canada or the United Kingdom;*

(b) *securities issued by the United States of America;*

(c) *securities issued or guaranteed by the International Bank for Reconstruction and Development payable in Canadian or United States currency;*

(d) *deposit receipts, deposit notes, certificates of deposits, acceptances and other similar instruments issued or endorsed by any chartered bank to which the Bank Act (Canada) applies; and*

(e) *such other securities as may from time to time be authorized by the Lieutenant Governor in Council,*

and pay therefor out of the Consolidated Revenue Fund.

(2) *The Treasurer may sell any securities purchased, acquired or held pursuant to this section and the proceeds of such sales shall be deposited to the credit of the Consolidated Revenue Fund.*

The new subsection provides that any fees, commissions or expenses incurred in respect of the purchase, etc., of securities are a charge on and payable out of the Consolidated Revenue Fund.

SECTION 2. Section 18 of the Act now reads as follows:

18. *Where a refund is authorized to be made to a person, such refund shall be paid out of the Consolidated Revenue Fund and charged to the appropriate account.*

The new subsection authorizes the Lieutenant Governor in Council to make regulations providing for the refund of a fee payable under an Act or regulation that does not provide for a refund of the fee.

SECTION 3. Subsection 1 of section 33a of the Act now reads as follows:

(1) *In addition to all moneys authorized to be raised by way of loan by this or any other Act, the Treasurer, subject to the approval of the Lieutenant Governor in Council, may borrow from time to time for any of the following purposes,*

(a) *to discharge any indebtedness or obligation of Ontario;*

(b) *to make any payment authorized or required by any Act to be made out of the Consolidated Revenue Fund;*

(c) *to reimburse the Consolidated Revenue Fund for any moneys expended for any such purposes,*

BILL 51

1979

An Act to amend The Financial Administration Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 12 of *The Financial Administration Act*, being chapter 166 of the Revised Statutes of Ontario, 1970, as amended by the Statutes of Ontario, 1973, chapter 142, section 1, is further amended by adding thereto the following subsection:

(3) Any fees, commissions or expenses incurred in respect of the purchase, acquisition, holding or sale of any securities under this section are a charge upon and payable out of the Consolidated Revenue Fund.

s. 12,
amended
Fees, etc.,
a charge on
the Consoli-
dated
Revenue Fund

2. Section 18 of the said Act is amended by adding thereto the following subsection:

(2) Where an Act or a regulation made thereunder provides for the payment of a fee and,

s. 18,
amended
Idem

(a) the Act or the regulation does not provide for a refund of the fee; and

(b) the Act does not authorize the making of a regulation providing for a refund of the fee,

the Lieutenant Governor in Council may make regulations under the Act providing for a refund of the fee in whole or in part and prescribing the conditions under which the refund may be made.

3. Subsection 1 of section 33a of the said Act, as enacted by the Statutes of Ontario, 1973, chapter 142, section 2, is amended by striking out "\$50,000,000" in the fifteenth line and inserting in lieu thereof "\$250,000,000".
- s. 33a (1),
amended

s. 49,
amended

4. Section 49 of the said Act is amended by adding thereto the following clause:

(d) prescribing a rate of interest per annum for the purpose of subsection 3 of section 50.

s. 50 (3),
amended

5. Subsection 3 of section 50 of the said Act is amended by striking out "at the rate of 5 per cent per annum" in the sixth and seventh lines and inserting in lieu thereof "at a rate of interest per annum prescribed by the Lieutenant Governor in Council".

Commence-
ment

6. This Act comes into force on the day it receives Royal Assent.

Short title

7. The short title of this Act is *The Financial Administration Amendment Act, 1979*.

by way of temporary loan from any chartered bank to which the Bank Act (Canada) applies, such sums not exceeding at any one time \$50,000,000, as the Treasurer considers necessary, either by way of bank overdraft or loan or in any other manner whatsoever.

The amendment increases to \$250,000,000 the maximum amount that may be borrowed by way of temporary loan.

SECTION 4. Section 49 of the Act now reads as follows:

49. The Lieutenant Governor in Council may make such regulations as he considers necessary,

(a) for the management of the public debt;

(b) for the inscription of any securities;

(c) for the registration, transfer, exchange, redemption, cancellation and destruction of securities.

The amendment is complementary to section 5 of the Bill.

SECTION 5. Subsection 3 of section 50 of the Act now reads as follows:

(3) Where a person fails to comply with the notice given under subsection 1 within the time stated therein, the Treasurer may state an account between the Crown and such person showing the amount of the money not paid over, accounted for or applied, as the case may be, and, in the discretion of the Treasurer, charging interest on the whole or any part thereof at the rate of 5 per cent per annum from such date as the Treasurer may determine, and in any proceedings for the recovery of such money a copy of the account so stated by the Treasurer, certified by him, is admissible in evidence as prima facie proof that the amount stated therein, together with interest, is due and payable to the Crown, without proof of the signature of the Treasurer or his official character, and without further proof thereof, and such amount and interest may be recovered as a debt due to the Crown in any court of competent jurisdiction.

The underlined words are struck out and replaced with "at a rate of interest per annum prescribed by the Lieutenant Governor in Council".

An Act to amend
The Financial Administration Act

1st Reading

April 10th, 1979

2nd Reading

3rd Reading

THE HON. F. S. MILLER
Treasurer of Ontario and
Minister of Economics

(Government Bill)

BILL 51

3RD SESSION, 31ST LEGISLATURE, ONTARIO
28 ELIZABETH II, 1979

**An Act to amend
The Financial Administration Act**

THE HON. F. S. MILLER
Treasurer of Ontario and Minister of Economics



BILL 51

1979

An Act to amend The Financial Administration Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 12 of *The Financial Administration Act*, being chapter 166 of the Revised Statutes of Ontario, 1970, as amended by the Statutes of Ontario, 1973, chapter 142, section 1, is further amended by adding thereto the following subsection:

(3) Any fees, commissions or expenses incurred in respect of the purchase, acquisition, holding or sale of any securities under this section are a charge upon and payable out of the Consolidated Revenue Fund.

s. 12,
amended

Fees, etc.,
a charge on
the Consoli-
dated
Revenue Fund

2. Section 18 of the said Act is amended by adding thereto the following subsection:

(2) Where an Act or a regulation made thereunder provides for the payment of a fee and,

s. 18,
amended

Idem

(a) the Act or the regulation does not provide for a refund of the fee; and

(b) the Act does not authorize the making of a regulation providing for a refund of the fee,

the Lieutenant Governor in Council may make regulations under the Act providing for a refund of the fee in whole or in part and prescribing the conditions under which the refund may be made.

3. Subsection 1 of section 33a of the said Act, as enacted by the Statutes of Ontario, 1973, chapter 142, section 2, is amended by striking out "\$50,000,000" in the fifteenth line and inserting in lieu thereof "\$250,000,000".
- s. 33a (1),
amended

s. 49,
amended

4. Section 49 of the said Act is amended by adding thereto the following clause:

(d) prescribing a rate of interest per annum for the purpose of subsection 3 of section 50.

s. 50 (3),
amended

5. Subsection 3 of section 50 of the said Act is amended by striking out "at the rate of 5 per cent per annum" in the sixth and seventh lines and inserting in lieu thereof "at a rate of interest per annum prescribed by the Lieutenant Governor in Council".

Commence-
ment

6. This Act comes into force on the day it receives Royal Assent.

Short title

7. The short title of this Act is *The Financial Administration Amendment Act, 1979*.

An Act to amend
The Financial Administration Act

1st Reading

April 10th, 1979

2nd Reading

May 10th, 1979

3rd Reading

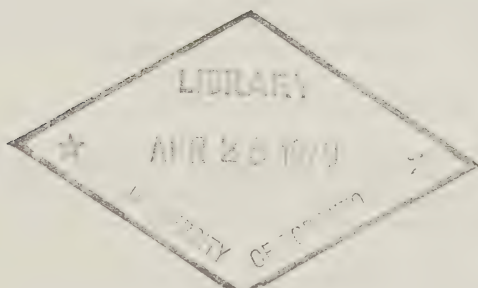
May 10th, 1979

THE HON. F. S. MILLER
Treasurer of Ontario and
Minister of Economics

3RD SESSION, 31ST LEGISLATURE, ONTARIO
28 ELIZABETH II, 1979

**An Act to amend
The Mining Tax Act, 1972**

THE HON. J. A. C. AULD
Minister of Natural Resources



TORONTO

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EXPLANATORY NOTES

SECTION 1. Subsection 1 of section 3 now reads:

- (1) Every mine the profit of which as determined under this section exceeds \$100,000 in a taxation year, is liable for and the owner, holder, tenant, occupier or operator of the mine shall pay a tax of,*
- (a) 15 per cent on the excess of profit above \$100,000 and up to \$1,000,000; and*
 - (b) 20 per cent on the excess of profit above \$1,000,000 and up to \$10,000,000; and*
 - (c) 25 per cent on the excess of profit above \$10,000,000 and up to \$20,000,000; and*
 - (d) 30 per cent on the excess of profit above \$20,000,000 and up to \$30,000,000; and*
 - (e) 35 per cent on the excess of profit above \$30,000,000 and up to \$40,000,000; and*
 - (f) 40 per cent on the excess of profit above \$40,000,000.*

The exemption from mining tax is increased from the first \$100,000 to the first \$250,000 of mining profits and the two highest marginal rates of 35 per cent and 40 per cent are removed.

SECTION 2. Cross references to subsection 1b of section 7 and subsection 4a of section 15 are added to clarify the application of section 15 to the subsections which were added by *The Mining Tax Amendment Act, 1978*. This provision is retroactive to the date that Act came into force.

SECTION 3. The Act comes into force on April 11, 1979 and the tax changes will apply to taxation years ending after April 10, 1979. For taxation years that include April 10, 1979, the tax change will be prorated on the basis of the number of days in the taxation year following April 10, 1979.

BILL 52

1979

**An Act to amend
The Mining Tax Act, 1972**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 1 of section 3 of *The Mining Tax Act, 1972*, being ^{s. 3 (1),} chapter 140, as re-enacted by the Statutes of Ontario, 1974, ^{re-enacted} chapter 132, section 2, is repealed and the following substituted therefor:

(1) Every mine, the profit of which as determined under ^{Profit} this section exceeds \$250,000 in a taxation year, is liable for ^{tax} and the owner, holder, tenant, occupier or operator of the mine shall pay a tax of,

(a) 15 per cent on the excess of profit above \$250,000 and up to \$1,000,000; and

(b) 20 per cent on the excess of profit above \$1,000,000 and up to \$10,000,000; and

(c) 25 per cent on the excess of profit above \$10,000,000 and up to \$20,000,000; and

(d) 30 per cent on the excess of profit above \$20,000,000.

- 2.—(1) Subsection 1 of section 15 of the said Act is amended ^{s. 15 (1),} by inserting after "subsection 1" in the third line "or ^{amended} 1b".

(2) Subsection 2 of the said section 15 is amended by insert- ^{s. 15 (2),} ing after "subsection 4" in the third line "or 4a". ^{amended}

(3) Subsection 3 of the said section 15 is amended by insert- ^{s. 15 (3),} ing after "subsection 1" in the third line "or 1b". ^{amended}

- 3.—(1) This Act, except section 2, shall be deemed to have come ^{Commence-} into force on the 11th day of April, 1979 and to apply ^{ment and} ^{application}

in respect of all taxation years ending after the 10th day of April, 1979, except that with respect to the taxation year ending after the 10th day of April, 1979, and that includes that day, the following rules apply:

- (a) determine the amount of tax payable under section 3 of the said Act as that section stood on the 10th day of April, 1979 on the assumption that that section as it so stood was applicable to that taxation year;
- (b) determine the proportion of the amount determined under clause *a* that the number of days of that taxation year prior to the 11th day of April, 1979 bears to the total number of days of that taxation year;
- (c) determine the amount of tax payable under section 3 of the said Act, as amended by section 1 of this Act, on the assumption that the section as so amended was applicable for that taxation year;
- (d) determine the proportion of the amount determined under clause *c* that the number of days of that taxation year that follow the 10th day of April, 1979 bears to the total number of days of that taxation year;
- (e) determine the aggregate of the amounts determined under clauses *b* and *d* in respect of the corporation,

and the aggregate determined under clause *e* is the amount payable under section 3 of the said Act, as amended by section 1 of this Act, for a taxation year that ends after the 10th day of April, 1979 and that includes that day.

Idem

- (2) Section 2 shall be deemed to have come into force on the 8th day of March, 1978.

Short title

- 4. The short title of this Act is *The Mining Tax Amendment Act, 1979*.

An Act to amend
The Mining Tax Act, 1972

1st Reading

April 10th, 1979

2nd Reading

3rd Reading

THE HON. J. A. C. AULD
Minister of Natural Resources

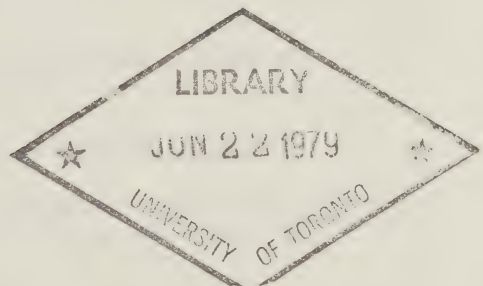
(Government Bill)

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BILL 52

3RD SESSION, 31ST LEGISLATURE, ^TONTARIO
28 ELIZABETH II, 1979 *Legislative Assembly*

**An Act to amend
The Mining Tax Act, 1972**

THE HON. J. A. C. AULD
Minister of Natural Resources



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

BILL 52

1979

An Act to amend The Mining Tax Act, 1972

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 1 of section 3 of *The Mining Tax Act, 1972*, being chapter 140, as re-enacted by the Statutes of Ontario, 1974, chapter 132, section 2, is repealed and the following substituted therefor:

(1) Every mine, the profit of which as determined under this section exceeds \$250,000 in a taxation year, is liable for and the owner, holder, tenant, occupier or operator of the mine shall pay a tax of

- (a) 15 per cent on the excess of profit above \$250,000 and up to \$1,000,000; and
- (b) 20 per cent on the excess of profit above \$1,000,000 and up to \$10,000,000; and
- (c) 25 per cent on the excess of profit above \$10,000,000 and up to \$20,000,000; and
- (d) 30 per cent on the excess of profit above \$20,000,000.

- 2.—(1) Subsection 1 of section 15 of the said Act is amended by inserting after "subsection 1" in the third line "or 1b".

- (2) Subsection 2 of the said section 15 is amended by inserting after "subsection 4" in the third line "or 4a".

- (3) Subsection 3 of the said section 15 is amended by inserting after "subsection 1" in the third line "or 1b".

- 3.—(1) This Act, except section 2, shall be deemed to have come into force on the 11th day of April, 1979 and to apply

in respect of all taxation years ending after the 10th day of April, 1979, except that with respect to the taxation year ending after the 10th day of April, 1979, and that includes that day, the following rules apply:

- (a) determine the amount of tax payable under section 3 of the said Act as that section stood on the 10th day of April, 1979 on the assumption that that section as it so stood was applicable to that taxation year;
- (b) determine the proportion of the amount determined under clause *a* that the number of days of that taxation year prior to the 11th day of April, 1979 bears to the total number of days of that taxation year;
- (c) determine the amount of tax payable under section 3 of the said Act, as amended by section 1 of this Act, on the assumption that the section as so amended was applicable for that taxation year;
- (d) determine the proportion of the amount determined under clause *c* that the number of days of that taxation year that follow the 10th day of April, 1979 bears to the total number of days of that taxation year;
- (e) determine the aggregate of the amounts determined under clauses *b* and *d* in respect of the corporation,

and the aggregate determined under clause *e* is the amount payable under section 3 of the said Act, as amended by section 1 of this Act, for a taxation year that ends after the 10th day of April, 1979 and that includes that day.

Idem

- (2) Section 2 shall be deemed to have come into force on the 8th day of March, 1978.

Short title

- 4. The short title of this Act is *The Mining Tax Amendment Act, 1979*.

An Act to amend
The Mining Tax Act, 1972

1st Reading

April 10th, 1979

2nd Reading

June 12th, 1979

3rd Reading

June 12th, 1979

THE HON. J. A. C. AULD
Minister of Natural Resources

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BILL 53

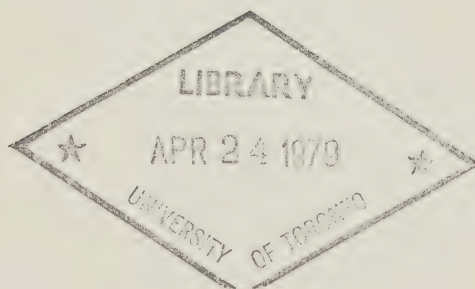
Government Bill

3rd SESSION, 31ST LEGISLATURE, ONTARIO
28 ELIZABETH II, 1979

Legislat

An Act to amend The Income Tax Act

THE HON. L. MAECK
Minister of Revenue



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTE

The Bill continues for the 1979 taxation year the income tax rate of 44 per cent payable by individuals in Ontario.

BILL 53

1979

An Act to amend The Income Tax Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause *i* of subsection 3 of section 3 of *The Income Tax Act*, being chapter 217 of the Revised Statutes of Ontario, 1970, as re-enacted by the Statutes of Ontario, 1978, chapter 11, section 1, is repealed and the following substituted therefor:

s. 3 (3) (i),
re-enacted

(i) 44 per cent in respect of the 1977, 1978 and 1979 taxation years.
2. This Act shall be deemed to have come into force on the 1st day of January, 1979.

Commence-
ment
3. The short title of this Act is *The Income Tax Amendment Act*, 1979.

Short title

An Act to amend
The Income Tax Act

1st Reading

April 10th, 1979

2nd Reading

3rd Reading

THE HON. L. MAECK
Minister of Revenue

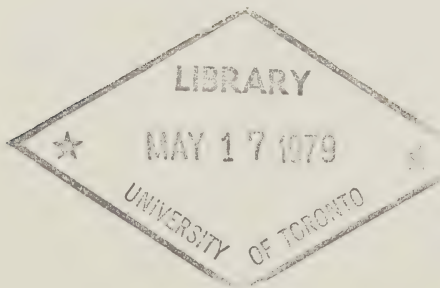
(Government Bill)

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BILL 53

3RD SESSION, 31ST LEGISLATURE, ONTARIO
28 ELIZABETH II, 1979

An Act to amend The Income Tax Act

THE HON. L. MAECK
Minister of Revenue



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

BILL 53

1979

An Act to amend The Income Tax Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause *i* of subsection 3 of section 3 of *The Income Tax Act*, being chapter 217 of the Revised Statutes of Ontario, 1970, as re-enacted by the Statutes of Ontario, 1978, chapter 11, section 1, is repealed and the following substituted therefor:

s. 3 (3) (i),
re-enacted

(i) 44 per cent in respect of the 1977, 1978 and 1979 taxation years.
2. This Act shall be deemed to have come into force on the 1st day of January, 1979.

Commence-
ment
3. The short title of this Act is *The Income Tax Amendment Act*, 1979.

Short title

An Act to amend
The Income Tax Act

1st Reading

April 10th, 1979

2nd Reading

April 24th, 1979

3rd Reading

April 24th, 1979

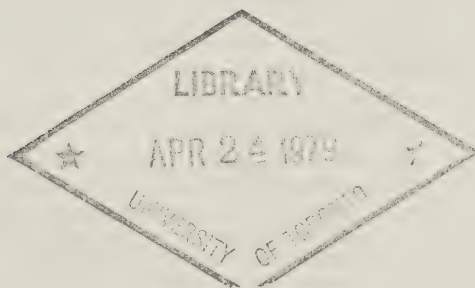
THE HON. L. MAECK
Minister of Revenue

3RD SESSION, 31ST LEGISLATURE, ONTARIO
28 ELIZABETH II, 1979

Legislature

**An Act to amend
The Motor Vehicle Fuel Tax Act**

THE HON. L. MAECK
Minister of Revenue



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTES

GENERAL

The Bill increases the rate of tax on motor vehicle fuel from 5.5 cents per litre to 5.9 cents per litre. It also imposes a tax of 2.2 cents per litre on fuel used to propel railway equipment on rails where such equipment is operated as part of a public transportation system.

The word "tax" is defined to clarify that it includes all penalties and interest that may be added to the tax imposed under the Act, and other administrative amendments are proposed.

SECTION 1. The clause added defines "tax" to include penalties and interest.

SECTION 2.—Subsection 1. Subsections 1 and 2 of section 3 now read as follows:

- (1) *Every purchaser shall pay to the Treasurer a tax at the rate of 5.5 cents per litre on all fuel received or used in Ontario by him to generate power in a motor vehicle.*
- (2) *Every registrant shall pay to the Treasurer a tax at the rate of 5.5 cents per litre on all fuel used by him to generate power in a motor vehicle.*

The amendment increases the rate of tax payable by purchasers and registrants on motor vehicle fuel from 5.5 cents to 5.9 cents per litre and also imposes a tax of 2.2 cents per litre payable by purchasers and registrants on fuel used to propel railway equipment used as part of a public transportation system.

Subsection 2. Subsection 10 of section 3 now reads as follows:

- (10) *Where any person selling fuel receives any payment made as or in lieu of the tax payable under this Act, such payment shall be dealt with and accounted for as tax under this Act, and any person who fails to deal with and account for such payment in accordance with this Act and the regulations is liable to the same penalties and fines, and is guilty of the same offences, as would apply if the payment were the tax payable under this Act, and the Minister may collect and receive such payment by the same remedies and procedures as are provided by this Act or the regulations for the collection and enforcement of the tax payable under this Act.*

The amendment provides that, for the purposes of assessment and collection of taxes, a person receiving a payment in lieu of tax will be subject to the assessment and collection procedures applicable to registrants.

BILL 54

1979

An Act to amend The Motor Vehicle Fuel Tax Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 1 of *The Motor Vehicle Fuel Tax Act*, being chapter 282 of the Revised Statutes of Ontario, 1970, as amended by the Statutes of Ontario, 1972, chapter 14, section 1 and 1972, chapter 147, section 1, is further amended by adding thereto the following clause:

(h) "tax" includes all penalties and interest that are or may be added to a tax under this Act.

- 2.—(1) Subsections 1 and 2 of section 3 of the said Act, as re-enacted by the Statutes of Ontario, 1978, chapter 78, section 2, are repealed and the following substituted therefor:

(1) Every purchaser shall pay to the Treasurer a tax at the rate of 5.9 cents per litre on all fuel received or used in Ontario by him to generate power in a motor vehicle other than railway equipment and shall pay a tax at the rate of 2.2 cents per litre on all fuel received or used in Ontario by him to propel railway equipment on rails where such equipment is operated in connection with and as part of a public transportation system.

(2) Every registrant shall pay to the Treasurer a tax at the rate of 5.9 cents per litre on all fuel used by him to generate power in a motor vehicle other than railway equipment and shall pay a tax at the rate of 2.2 cents per litre on all fuel used by him to propel railway equipment on rails where such equipment is operated in connection with and as part of a public transportation system.

s. 3 (10),
amended

- (2) Subsection 10 of the said section 3, as enacted by the Statutes of Ontario, 1977, chapter 18, section 2, is amended by adding at the end thereof "and for the purposes of the assessment and collection of such payment the person receiving such payment as or in lieu of the tax payable under this Act is deemed to be a registrant".

s. 6,
amended

- 3.** Section 6 of the said Act is amended by striking out "a surety bond" in the first and second lines and inserting in lieu thereof "security".

Commence-
ment

- 4.**—(1) This Act, except subsection 1 of section 2, comes into force on the day it receives Royal Assent.

Idem

- (2) Subsection 1 of section 2 shall be deemed to have come into force on the 11th day of April, 1979.

Short title

- 5.** The short title of this Act is *The Motor Vehicle Fuel Tax Amendment Act, 1979*.

SECTION 3. The provision to be amended now reads as follows:

6. The Minister may require any registrant to furnish a surety bond on such terms and conditions and in such amount as the Minister considers appropriate.

The amendment substitutes the less restrictive term "security" for the present expression "surety bond".

An Act to amend
The Motor Vehicle Fuel Tax Act

1st Reading

April 10th, 1979

2nd Reading

3rd Reading

THE HON. L. MAECK
Minister of Revenue

(Government Bill)

BILL 54

3RD SESSION, 31ST LEGISLATURE, ONTARIO
28 ELIZABETH II, 1979

4th Legislative Assembly

**An Act to amend
The Motor Vehicle Fuel Tax Act**

THE HON. L. MAECK
Minister of Revenue



BILL 54

1979

An Act to amend The Motor Vehicle Fuel Tax Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 1 of *The Motor Vehicle Fuel Tax Act*, being chapter 282 of the Revised Statutes of Ontario, 1970, as amended by the Statutes of Ontario, 1972, chapter 14, section 1 and 1972, chapter 147, section 1, is further amended by adding thereto the following clause: s. 1,
amended

(h) "tax" includes all penalties and interest that are or may be added to a tax under this Act.

- 2.—(1) Subsections 1 and 2 of section 3 of the said Act, as re-enacted by the Statutes of Ontario, 1978, chapter 78, section 2, are repealed and the following substituted therefor: s. 3 (1, 2),
re-enacted

(1) Every purchaser shall pay to the Treasurer a tax Tax at the rate of 5.9 cents per litre on all fuel received or used in Ontario by him to generate power in a motor vehicle other than railway equipment and shall pay a tax at the rate of 2.2 cents per litre on all fuel received or used in Ontario by him to propel railway equipment on rails where such equipment is operated in connection with and as part of a public transportation system.

(2) Every registrant shall pay to the Treasurer a tax at the rate of 5.9 cents per litre on all fuel used by him to generate Idem power in a motor vehicle other than railway equipment and shall pay a tax at the rate of 2.2 cents per litre on all fuel used by him to propel railway equipment on rails where such equipment is operated in connection with and as part of a public transportation system.

s. 3 (10),
amended

- (2) Subsection 10 of the said section 3, as enacted by the Statutes of Ontario, 1977, chapter 18, section 2, is amended by adding at the end thereof "and for the purposes of the assessment and collection of such payment the person receiving such payment as or in lieu of the tax payable under this Act is deemed to be a registrant".

s. 6,
amended

- 3.** Section 6 of the said Act is amended by striking out "a surety bond" in the first and second lines and inserting in lieu thereof "security".

Commence-
ment

- 4.**—(1) This Act, except subsection 1 of section 2, comes into force on the day it receives Royal Assent.

Idem

- (2) Subsection 1 of section 2 shall be deemed to have come into force on the 11th day of April, 1979.

Short title

- 5.** The short title of this Act is *The Motor Vehicle Fuel Tax Amendment Act, 1979*.



An Act to amend
The Motor Vehicle Fuel Tax Act

1st Reading

April 10th, 1979

2nd Reading

April 24th, 1979

3rd Reading

May 8th, 1979

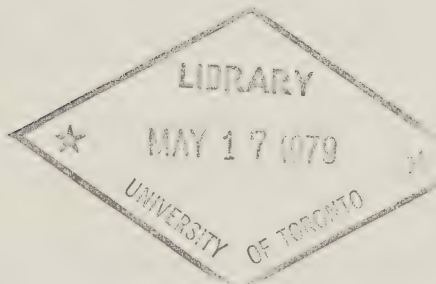
THE HON. L. MAECK
Minister of Revenue

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BILL 55

3RD SESSION, 31ST LEGISLATURE, ¹ONTARIO
28 ELIZABETH II, 1979 *Legislative A*

**An Act to amend
The Gasoline Tax Act, 1973**

THE HON. L. MAECK
Minister of Revenue



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

An Act to amend The Gasoline Tax Act, 1973

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsections 1 and 2 of section 2 of *The Gasoline Tax Act, 1973*,
being chapter 99, as re-enacted by the Statutes of Ontario,
1978, chapter 77, section 1, are repealed and the following
substituted therefor:
 - (1) Every purchaser of gasoline shall pay to the Treasurer
a tax at the rate of 4.6 cents per litre on all gasoline
purchased, or delivery of which is received, by him.

s. 2 (1, 2),
re-enacted
Tax payable
by purchaser
of gasoline
 - (2) Every purchaser of aviation fuel shall pay to the
Treasurer a tax at the rate of 1.32 cents per litre on all
aviation fuel purchased, or delivery of which is received, by him.

Tax on
aviation
fuel
2. Section 6 of the said Act is amended by adding thereto the
following subsection:

s. 6,
amended

 - (6) The Minister may require that any person charged with
collection of the tax imposed by this Act shall furnish
security in such form and amount and for such length of
time as the Minister considers necessary.

Security
3. Clause *b* of section 31 of the said Act is repealed.

s. 31 (b),
repealed
4. This Act shall be deemed to have come into force on the 11th
day of April, 1979.

Commence-
ment
5. The short title of this Act is *The Gasoline Tax Amendment
Act, 1979*.

Short title

An Act to amend
The Gasoline Tax Act, 1973

1st Reading

April 10th, 1979

2nd Reading

April 26th, 1979

3rd Reading

April 26th, 1979

THE HON. L. MAECK
Minister of Revenue

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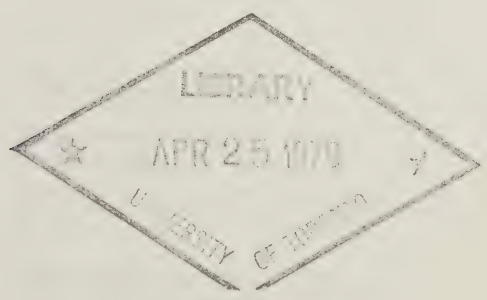
BILL 56

Government
Publications
Government Bill

3RD SESSION, 31ST LEGISLATURE, ^TONTARIO
28 ELIZABETH II, 1979 *17 April*
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**An Act to amend
The Tobacco Tax Act**

THE HON. L. MAECK
Minister of Revenue



EXPLANATORY NOTES

GENERAL

The Bill increases the rate of tax from 1.1 cents to 1.2 cents per cigarette purchased in Ontario. The rate of tax on tobacco, other than cigarettes or cigars, is increased from 0.4 to 0.5 cents per gram. The present rate of tax on cigars is changed to 3 cents on every cigar selling at a retail price of 9 cents or less. For cigars sold for a price in excess of 9 cents, the rate of tax will be 45 per cent of the retail price. In addition, the present maximum tax of 39 cents per cigar will no longer apply.

Provisions are also included to remove the lien for unpaid tax and to limit claims for refunds of overpayments of tax to three years from the date upon which such overpayment is made.

An Amendment is also proposed to broaden the type of security that the Minister may accept from a collector under the Act.

SECTION 1. Subsection 1 of section 2 now reads as follows:

(1) Every consumer shall pay to Her Majesty in right of Ontario a tax computed as follows:

- (a) one and one-tenth cents on every cigarette purchased by him;*
- (b) four-tenths of 1 cent on every gram or part thereof of any tobacco, other than cigarettes or cigars, purchased by him;*
- (c) 2 cents on every cigar purchased by him for a price at retail of not more than 7 cents;*
- (d) 5 cents on every cigar purchased by him for a price at retail of more than 7 cents but not more than 10 cents;*
- (e) 7 cents on every cigar purchased by him for a price at retail of more than 10 cents but not more than 15 cents, and thereafter, an additional 2 cents for each additional 5 cents or part thereof that the price at retail of a cigar purchased by him exceeds 15 cents and does not exceed 90 cents; and*
- (f) 39 cents on every cigar purchased by him for a price at retail of more than 90 cents.*

The amendment provides for,

- (a) an increase in the rate of tax from 1.1 cents to 1.2 cents per cigarette; and*
- (b) an increase in the rate of tax from 0.4 to 0.5 cents per gram of tobacco, other than cigarettes or cigars.*

The present rate of tax on cigars is changed in clause *c* to 3 cents on every cigar selling at retail for 9 cents or less. In clause *d* a tax of 45 per cent of the retail price of each cigar selling at retail for more than 9 cents is imposed.

SECTION 2. Clause *b* of section 4 now reads as follows:

- 4. The Minister may suspend or cancel the permit of any wholesale dealer who,*

An Act to amend The Tobacco Tax Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 1 of section 2 of *The Tobacco Tax Act*, being chapter 463 of the Revised Statutes of Ontario, 1970, as re-enacted by the Statutes of Ontario, 1978, chapter 5, section 1, is repealed and the following substituted therefor: s. 2 (1),
re-enacted

(1) Every consumer shall pay to Her Majesty in right of Ontario a tax computed as follows: Tax on
consumers

- (a) 1.2 cents on every cigarette purchased by him;
- (b) 0.5 cents on every gram or part thereof of any tobacco, other than cigarettes or cigars, purchased by him;
- (c) 3 cents on every cigar purchased by him for a price at retail of not more than 9 cents;
- (d) 45 per cent of the price at retail of every cigar that is purchased by him for a price at retail of more than 9 cents, provided that where the application of such rate of tax produces a fraction of a cent, the fraction shall be counted as one full cent.

2. Clause *b* of section 4 of the said Act is amended by striking out "a surety bond" in the first line and inserting in lieu thereof "security". s. 4 (b),
amended
3. Subsection 1 of section 6 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 11, section 2, is amended by inserting after "stock" in the first line "of tobacco". s. 6 (1),
amended

s. 8 (2),
re-enacted

4. Subsection 2 of section 8 of the said Act, as amended by the Statutes of Ontario, 1977, chapter 11, section 3, is repealed and the following substituted therefor:

Default in
payment over
to Treasurer

(2) If any person who has collected any tax imposed by this Act fails to pay it over to the Treasurer at the time and in the manner prescribed by the regulations or by agreement made under the regulations, as the case may be, the amount thereof becomes a debt due from such person to Her Majesty in right of Ontario.

s. 10a (1),
amended

5. Subsection 1 of section 10a of the said Act, as enacted by the Statutes of Ontario, 1977, chapter 11, section 4, is amended by striking out "Upon default of payment of an amount assessed under section 8b" in the first and second lines and inserting in lieu thereof "Upon default of payment by any person of any amount payable, or to be remitted under this Act as tax, interest, or a penalty, other than a penalty imposed as a result of a prosecution for an offence under this Act".

s. 15a,
amended

6. Section 15a of the said Act, as enacted by the Statutes of Ontario, 1977, chapter 11, section 6, is amended by adding thereto the following subsections:

Limitation

(1a) No refund under subsection 1 shall be made unless an application for the refund is made to the Minister within three years from the date of payment of the amount a refund of which is sought, and unless evidence satisfactory to the Minister is furnished to establish the entitlement of the applicant to the refund claimed.

Saving

(1b) Where, as the result of an assessment or reassessment or the final decision of a court in proceedings commenced under section 8e, the person assessed or reassessed or the appellant, as the case may be, has overpaid the tax interest or penalty payable under this Act, the amount of such overpayment shall be refunded or applied to liability of such person in accordance with subsection 1 notwithstanding the limitation contained in subsection 1a.

s. 16 (1) (c),
re-enacted

7. Clause c of subsection 1 of section 16 of the said Act is repealed and the following substituted therefor:

(c) requiring security to be furnished by the persons who collect the tax imposed by this Act and prescribing the form and amount of the security to be furnished

Commence-
ment

- 8.—(1) This Act, except sections 1 and 6, comes into force on the day it receives Royal Assent.

- (b) *refuses or neglects to furnish a surety bond when so required under the regulations,*

The proposed amendment removes the specific reference to "surety bond", thereby enabling the Minister to suspend or cancel the permit of any wholesale dealer who refuses or neglects to furnish any type of security when so required.

The amendment proposed in section 7 of the Bill will authorize regulations to be made to enlarge the type of security that the Minister can accept and will remove the restriction that such security must be by way of "surety bond".

SECTION 3. Subsection 1 of section 6, as proposed to be amended, is set out below showing underlined the words to be added:

- (1) *No wholesale dealer shall dispose of his stock of tobacco through a sale in bulk as defined in The Bulk Sales Act without first obtaining a certificate in duplicate from the Minister that all taxes collectable or payable under this Act by such wholesale dealer have been paid or that such person has entered into an arrangement satisfactory to the Minister for the payment of such taxes or for securing their payment.*

The amendment clarifies that it is only the bulk sale of tobacco stock that requires a certificate as to payment of tax from the Minister.

SECTION 4. Subsection 2 of section 8 as it now reads is set out below showing underlined the words to be deleted:

- (2) *If any person who has collected any tax imposed by this Act fails to pay it over to the Treasurer at the time and in the manner prescribed by the regulations or by agreement made under the regulations, as the case may be, the amount thereof becomes a debt due to Her Majesty in right of Ontario, and is a lien upon the property in Ontario of the person in default and, subject to the Bankruptcy Act (Canada), has priority over all other claims of other persons.*

The amendment removes the Crown's right to a lien on the property of a person who defaults in the payment of tax under this Act.

This amendment is in keeping with the Ministry's policy of removing or restricting liens wherever possible.

SECTION 5. Subsection 1 of section 10a authorizes the Minister to collect unpaid tax by way of court action or warrant of execution. The operation of the subsection is now restricted to the situation where an assessment under section 8b of the Act has been issued. The proposed amendment will, as is the case in other Revenue statutes, enlarge the subsection to cover the collection of any payments under the Act that are in default.

SECTION 6. The new subsection 1a provides that no refund of tax will be made unless an application for refund is made to the Minister within three years from the date of payment of the amount requested to be refunded and unless evidence is furnished to the Minister establishing the entitlement of the applicant to the refund.

The new subsection 1*b* provides that the three year limitation period established in subsection 1*a* will not apply where a refund of tax, interest or penalty is made as the result of a decision of a court where an appeal has been taken under the Act or as the result of an assessment or reassessment made under the Act.

SECTION 7. The proposed amendment enlarges the type of security that can be prescribed under the Act so that it is no longer restricted to surety bonds.

- (2) Section 1 shall be deemed to have come into force on the ^{Idem} 11th day of April, 1979.
- (3) Section 6 shall be deemed to have come into force on the ^{Idem} 11th day of April, 1979 and applies in respect of over-payments made before or after that date.
9. The short title of this Act is *The Tobacco Tax Amendment* ^{Short title} *Act, 1979*.

An Act to amend
The Tobacco Tax Act

1st Reading

April 10th, 1979

2nd Reading

3rd Reading

THE HON. L. MAECK
Minister of Revenue

(Government Bill)

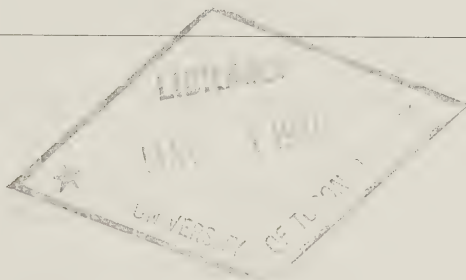
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BILL 56

**Government
Publications**

3RD SESSION, 31ST LEGISLATURE, ONTARIO
28 ELIZABETH II, 1979

**An Act to amend
The Tobacco Tax Act**

THE HON. L. MAECK
Minister of Revenue



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

BILL 56

1979

An Act to amend The Tobacco Tax Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 1 of section 2 of *The Tobacco Tax Act*, being chapter 463 of the Revised Statutes of Ontario, 1970, as re-enacted by the Statutes of Ontario, 1978, chapter 5, section 1, is repealed and the following substituted therefor: s. 2 (1),
re-enacted

(1) Every consumer shall pay to Her Majesty in right of Tax on
consumers Ontario a tax computed as follows:

- (a) 1.2 cents on every cigarette purchased by him;
- (b) 0.5 cents on every gram or part thereof of any tobacco, other than cigarettes or cigars, purchased by him;
- (c) 3 cents on every cigar purchased by him for a price at retail of not more than 9 cents;
- (d) 45 per cent of the price at retail of every cigar that is purchased by him for a price at retail of more than 9 cents, provided that where the application of such rate of tax produces a fraction of a cent, the fraction shall be counted as one full cent.

2. Clause *b* of section 4 of the said Act is amended by striking out "a surety bond" in the first line and inserting in lieu thereof "security". s. 4 (b),
amended
3. Subsection 1 of section 6 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 11, section 2, is amended by inserting after "stock" in the first line "of tobacco". s. 6 (1),
amended

s. 8 (2),
re-enacted

4. Subsection 2 of section 8 of the said Act, as amended by the Statutes of Ontario, 1977, chapter 11, section 3, is repealed and the following substituted therefor:

Default in
payment over
to Treasurer

(2) If any person who has collected any tax imposed by this Act fails to pay it over to the Treasurer at the time and in the manner prescribed by the regulations or by agreement made under the regulations, as the case may be, the amount thereof becomes a debt due from such person to Her Majesty in right of Ontario.

s. 10a (1),
amended

5. Subsection 1 of section 10a of the said Act, as enacted by the Statutes of Ontario, 1977, chapter 11, section 4, is amended by striking out "Upon default of payment of an amount assessed under section 8b" in the first and second lines and inserting in lieu thereof "Upon default of payment by any person of any amount payable, or to be remitted under this Act as tax, interest, or a penalty, other than a penalty imposed as a result of a prosecution for an offence under this Act".

s. 15a,
amended

6. Section 15a of the said Act, as enacted by the Statutes of Ontario, 1977, chapter 11, section 6, is amended by adding thereto the following subsections:

Limitation

(1a) No refund under subsection 1 shall be made unless an application for the refund is made to the Minister within three years from the date of payment of the amount a refund of which is sought, and unless evidence satisfactory to the Minister is furnished to establish the entitlement of the applicant to the refund claimed.

Saving

(1b) Where, as the result of an assessment or reassessment or the final decision of a court in proceedings commenced under section 8e, the person assessed or reassessed or the appellant, as the case may be, has overpaid the tax, interest or penalty payable under this Act, the amount of such overpayment shall be refunded or applied to liability of such person in accordance with subsection 1 notwithstanding the limitation contained in subsection 1a.

s. 16 (1) (c),
re-enacted

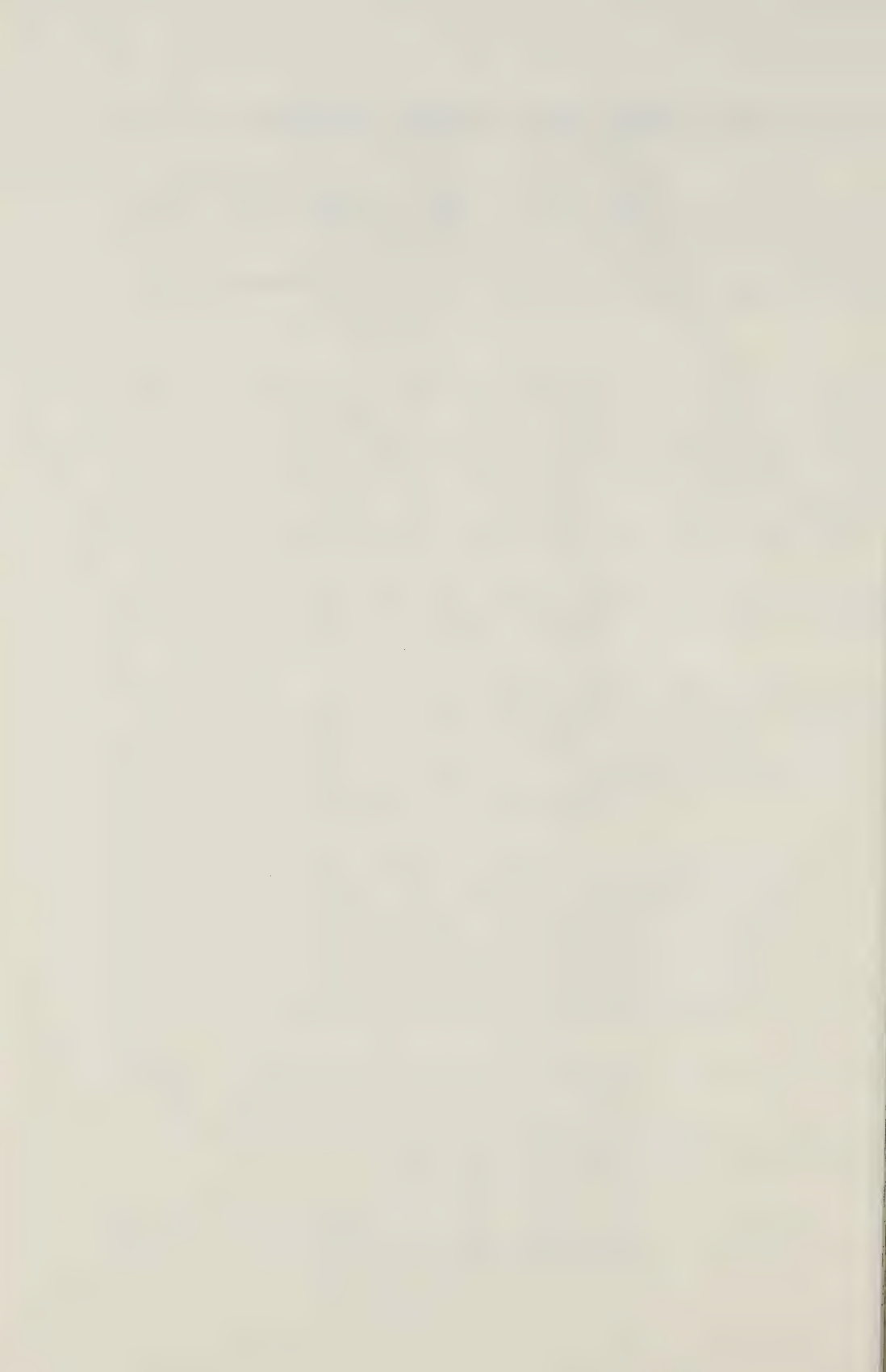
7. Clause c of subsection 1 of section 16 of the said Act is repealed and the following substituted therefor:

(c) requiring security to be furnished by the persons who collect the tax imposed by this Act and prescribing the form and amount of the security to be furnished.

Commence-
ment

- 8.—(1) This Act, except sections 1 and 6, comes into force on the day it receives Royal Assent.

- (2) Section 1 shall be deemed to have come into force on the ^{Idem} 11th day of April, 1979.
 - (3) Section 6 shall be deemed to have come into force on the ^{Idem} 11th day of April, 1979 and applies in respect of over-payments made before or after that date.
- 9.** The short title of this Act is *The Tobacco Tax Amendment* ^{Short title} *Act, 1979*.



An Act to amend
The Tobacco Tax Act

1st Reading

April 10th, 1979

2nd Reading

April 24th, 1979

3rd Reading

April 24th, 1979

THE HON. L. MAECK
Minister of Revenue

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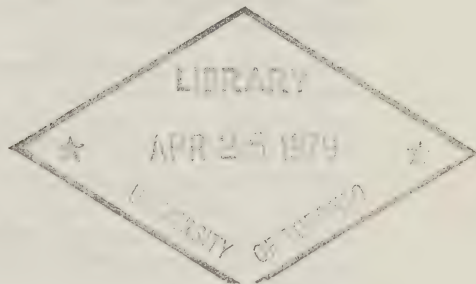
BILL 57

Government
Publications
Government Bill

3RD SESSION, 31ST LEGISLATURE, ONTARIO
28 ELIZABETH II, 1979

**An Act to amend
The Land Transfer Tax Act, 1974**

THE HON. L. MAECK
Minister of Revenue



EXPLANATORY NOTES

GENERAL

The Bill increases the rate of land transfer tax payable upon the registration of conveyances to residents of Canada and upon the registration of conveyances of "unrestricted land". The rate of three-tenths of 1 per cent on the first \$35,000 of consideration paid for the transfer and six-tenths of 1 per cent thereafter is increased to two-fifths of 1 per cent on the first \$45,000 of consideration and to four-fifths of 1 per cent thereafter.

Amendments are also proposed to provide for tax where the legal and beneficial interests in land are conveyed separately and consideration is given for the acquisition of the beneficial interest.

SECTION 1.—Subsection 1. Clause *b* of subsection 1 of section 1 of the Act as it now reads showing underlined the words to be deleted is set out below:

- (b) *"convey" includes the granting, assigning, releasing, surrendering, leasing or disposing of land in Ontario, agreeing to sell land in Ontario, or the giving of an option upon or with respect to any land in Ontario, whether the effect of any of the foregoing is to bring into existence an interest of any kind in land or is only for the purpose of giving effect to or formal recognition to any interest of whatsoever kind that theretofore existed in land, but "convey" does not include any transfer of land for the purpose only of securing a debt or loan, or any transfer by a creditor for the purpose only of returning land that had been used as security for a debt or loan, or any transfer of land by virtue of which there is a change in the legal ownership of the land without any change in its beneficial ownership.*

The amendment provides that a transfer of the legal title to land without an accompanying change in the beneficial interest in the land is now a conveyance and may be subject to tax upon registration if there is consideration for the transfer.

Subsection 2. Clause *m* of subsection 1 of section 1 now reads as follows:

- (m) *"value of the consideration" includes,*
- (i) *moneys paid in cash,*
 - (ii) *the value of any property or security exchanged for the conveyance of land,*
 - (iii) *the value of any encumbrance, charge or other liability to which the land being conveyed is subject at the time of registration,*
 - (iv) *in the case of a final order of foreclosure under any mortgage or charge affecting land, the lesser of,*
- (A) *the amount owed under the mortgage or charge at the time it was foreclosed, including principal, interest and all other costs and expenses, other than municipal taxes, secured by the mortgage or charge and owing at that time, or*

An Act to amend The Land Transfer Tax Act, 1974

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Clause *b* of subsection 1 of section 1 of *The Land Transfer Tax Act, 1974*, being chapter 8, is amended by striking out “or any transfer of land by virtue of which there is a change in the legal ownership of the land without any change in its beneficial ownership” in the fourteenth, fifteenth, sixteenth and seventeenth lines. s. 1 (1) (*b*),
amended
- (2) Clause *m* of subsection 1 of the said section 1, as amended by the Statutes of Ontario, 1974, chapter 93, section 1 and 1977, chapter 14, section 1, is repealed and the following substituted therefor: s. 1 (1) (*m*),
re-enacted
 - (*m*) “value of consideration” includes,
 - (i) the gross sale price or the amount expressed in money of any consideration given or to be given for the conveyance by or on behalf of the transferee and the value expressed in money of any liability assumed or undertaken by or on behalf of the transferee as part of the arrangement relating to the conveyance and the value expressed in money of any benefit of whatsoever kind conferred directly or indirectly by the transferee on any person as part of the arrangement relating to the conveyance,
 - (ii) in the case of a final order of foreclosure under any mortgage or charge affecting land, the lesser of,
 - (A) the amount owed under the mortgage or charge at the time it was fore-

closed, including principal, interest and all other costs and expenses, other than municipal taxes, secured by the mortgage or charge and owing at that time, or

- (B) an amount established to the satisfaction of the Minister to be equal to the fair market value of the land that is subject to the mortgage or charge,
- (iii) in the case where a lease of land, a transfer of the interest of a lessee under a lease of land, or a notice in writing signifying the existence of a lease of land or of a transfer of the interest of a lessee under a lease of land is not exempt from tax by virtue of subsection 4, the fair market value, ascertained as at the time of the tender for registration, of the land to which the lease extends or of a smaller portion of such land if only such smaller portion is conveyed,
- (iv) in the case of a notice or caution in writing signifying the existence of any instrument or writing by which land is conveyed and that is not a notice in writing described in subclause iii the value of the consideration, determined under subclause i or ii for the land conveyed by the instrument or writing that is referred to in such notice or caution in writing that is not a notice in writing described in subclause iii, or
- (v) in the case of a conveyance of land from a trustee (whether or not the trustee is so described in the conveyance) to a person to whom or for whose benefit any equitable or beneficial interest in the land has been transferred by a conveyance or conveyances that have not been registered, the value of the consideration determined under subclauses i to iv, whichever is applicable, in respect of the unregistered conveyances made to such person.

(B) *an amount established to the satisfaction of the Minister to be equal to the fair market value of the land that is subject to the mortgage or charge,*

(v) *in the case where a lease of land, a transfer of the interest of a lessee under a lease of land, or a notice in writing signifying the existence of a lease of land or of a transfer of the interest of a lessee under a lease of land is not exempt from tax by virtue of subsection 4, the fair market value, ascertained as at the time of the tender for registration, of the land to which the lease extends or of a smaller portion of such land if only such smaller portion is conveyed, or*

(vi) *in the case of a notice or caution in writing signifying the existence of any instrument or writing by which land is conveyed and that is not a notice in writing described in subclause v, the value of the consideration, determined under subclauses i to iv, for the land conveyed by the instrument or writing that is referred to in such notice or caution in writing that is not a notice in writing described in subclause v.*

The amendment combines the purport of subclauses i, ii, and iii into one subclause (subclause i), renumbers the present subclauses iv, v and vi as subclauses ii, iii and iv and adds a new subclause v.

The new subclause v provides that where a conveyance of land is registered from a trustee to a person who is the beneficial owner of the land and who acquired his interest by an unregistered conveyance, the value upon which tax is exigible is the amount paid to acquire the beneficial interest in the land by such person.

Thus, the consideration paid to acquire the unregistered beneficial interest will be brought into tax upon the subsequent acquisition of the legal interest.

SECTION 2.—Subsection 1. Subsection 1 of section 2 now reads as follows:

(1) *Every person who tenders for registration in Ontario,*

(a) *a conveyance whereby any land is conveyed to or in trust for any transferee who is not a non-resident person; or*

(b) *a conveyance that is a conveyance only of unrestricted land and upon which is endorsed or to which is attached a certification by the Minister, or by some person authorized by the Minister in writing to make the certification, that all of the land being conveyed is unrestricted land,*

shall, before the conveyance is registered, pay a tax computed at the rate of three-tenths of 1 per cent of the value of the consideration for the conveyance up to and including \$35,000, and at the rate of six-tenths of 1 per cent upon the remainder of the value of the consideration.

The amendment increases the rate of tax payable on the registration of conveyances to residents of Canada and on the registration of conveyances of "unrestricted land" as defined in the Act. The present rate of three-tenths of 1 per cent on the first \$35,000 of consideration paid for the transfer and six-tenths of 1 per cent thereafter is increased to two-fifths of 1 per cent on the first \$45,000 of consideration and to four-fifths of 1 per cent thereafter.

Subsection 2. Subsection 6 of section 2 as it now reads is set out below showing underlined the percentage being changed:

- (6) *Where only a part of the land being conveyed is unrestricted land and the conveyance is to or in trust for any non-resident person, the Minister may, to the extent that he considers it practicable, determine what amount of the value of the consideration for the conveyance is reasonably attributable to the unrestricted land being conveyed, and the person tendering the conveyance for registration is, notwithstanding subsection 1 or 2, liable to a tax computed at the rate of six-tenths of 1 per cent of such amount so determined, and is liable to a tax computed at the rate of 20 per cent of the amount of the value of the consideration for the conveyance that is determined by the Minister not to be reasonably attributable to the unrestricted land being conveyed.*

The amendment is consequential on the new rates of land transfer tax for conveyances of "unrestricted land" introduced in subsection 1 of section 2 of the Bill.

SECTION 3. The amendment is consequential on the amendment made by subsection 2 of section 1 of the Bill.

- (a) by striking out "three-tenths" in the twelfth line and inserting in lieu thereof "two-fifths";
 - (b) by striking out "\$35,000" in the fourteenth line and inserting in lieu thereof "\$45,000"; and
 - (c) by striking out "six-tenths" in the fourteenth line and inserting in lieu thereof "four-fifths".
- (2) Subsection 6 of the said section 2, as enacted by the Statutes of Ontario, 1977, chapter 14, section 2, is amended by striking out "six-tenths of 1 per cent" in the ninth line and inserting in lieu thereof "four-fifths of 1 per cent". ^{s. 2 (6), amended}
3. Subsection 5a of section 16 of the said Act, as enacted by the Statutes of Ontario, 1977, chapter 14, section 7, is amended by striking out "subclause v" in the seventh and eighth lines and inserting in lieu thereof "subclause iii". ^{s. 16 (5a), amended}
4. This Act shall be deemed to have come into force on the 11th day of April, 1979 and applies to all conveyances made, executed or delivered on, before or after that date but not tendered for registration until on or after that date. ^{Commence-ment}
5. The short title of this Act is *The Land Transfer Tax Amendment Act, 1979*. ^{Short title}

An Act to amend
The Land Transfer Tax Act, 1974

1st Reading

April 10th, 1979

2nd Reading

3rd Reading

THE HON. L. MAECK
Minister of Revenue

(*Government Bill*)

3
F BILL 57

3RD SESSION, 31ST LEGISLATURE, ONTARIO
28 ELIZABETH II, 1979

An Act to amend
The Land Transfer Tax Act, 1974

THE HON. L. MAECK
Minister of Revenue



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

An Act to amend The Land Transfer Tax Act, 1974

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Clause *b* of subsection 1 of section 1 of *The Land Transfer Tax Act, 1974*, being chapter 8, is amended by striking out “or any transfer of land by virtue of which there is a change in the legal ownership of the land without any change in its beneficial ownership” in the fourteenth, fifteenth, sixteenth and seventeenth lines. s. 1 (1) (b),
amended

(2) Clause *m* of subsection 1 of the said section 1, as amended by the Statutes of Ontario, 1974, chapter 93, section 1 and 1977, chapter 14, section 1, is repealed and the following substituted therefor: s. 1 (1) (m),
re-enacted

(*m*) “value of consideration” includes,

(i) the gross sale price or the amount expressed in money of any consideration given or to be given for the conveyance by or on behalf of the transferee and the value expressed in money of any liability assumed or undertaken by or on behalf of the transferee as part of the arrangement relating to the conveyance and the value expressed in money of any benefit of whatsoever kind conferred directly or indirectly by the transferee on any person as part of the arrangement relating to the conveyance,

(ii) in the case of a final order of foreclosure under any mortgage or charge affecting land, the lesser of,

(A) the amount owed under the mortgage or charge at the time it was fore-

closed, including principal, interest and all other costs and expenses, other than municipal taxes, secured by the mortgage or charge and owing at that time, or

- (B) an amount established to the satisfaction of the Minister to be equal to the fair market value of the land that is subject to the mortgage or charge,
- (iii) in the case where a lease of land, a transfer of the interest of a lessee under a lease of land, or a notice in writing signifying the existence of a lease of land or of a transfer of the interest of a lessee under a lease of land is not exempt from tax by virtue of subsection 4, the fair market value, ascertained as at the time of the tender for registration, of the land to which the lease extends or of a smaller portion of such land if only such smaller portion is conveyed,
- (iv) in the case of a notice or caution in writing signifying the existence of any instrument or writing by which land is conveyed and that is not a notice in writing described in subclause iii the value of the consideration, determined under subclause i or ii for the land conveyed by the instrument or writing that is referred to in such notice or caution in writing that is not a notice in writing described in subclause iii, or
- (v) in the case of a conveyance of land from a trustee (whether or not the trustee is so described in the conveyance) to a person to whom or for whose benefit any equitable or beneficial interest in the land has been transferred by a conveyance or conveyances that have not been registered, the value of the consideration determined under subclauses i to iv, whichever is applicable, in respect of the unregistered conveyances made to such person.

- (a) by striking out "three-tenths" in the twelfth line and inserting in lieu thereof "two-fifths";
 - (b) by striking out "\$35,000" in the fourteenth line and inserting in lieu thereof "\$45,000"; and
 - (c) by striking out "six-tenths" in the fourteenth line and inserting in lieu thereof "four-fifths".
- (2) Subsection 6 of the said section 2, as enacted by the Statutes of Ontario, 1977, chapter 14, section 2, is ^{s. 2 (6), amended} amended by striking out "six-tenths of 1 per cent" in the ninth line and inserting in lieu thereof "four-fifths of 1 per cent".
3. Subsection 5a of section 16 of the said Act, as enacted by the Statutes of Ontario, 1977, chapter 14, section 7, is ^{s. 16 (5a), amended} amended by striking out "subclause v" in the seventh and eighth lines and inserting in lieu thereof "subclause iii".
4. This Act shall be deemed to have come into force on the 11th day of April, 1979 and applies to all conveyances made, ^{Commence-ment} executed or delivered on, before or after that date but not tendered for registration until on or after that date.
5. The short title of this Act is *The Land Transfer Tax Amendment Act, 1979*. ^{Short title}

An Act to amend
The Land Transfer Tax Act, 1974

1st Reading

April 10th, 1979

2nd Reading

April 26th, 1979

3rd Reading

May 8th, 1979

THE HON. L. MAECK
Minister of Revenue

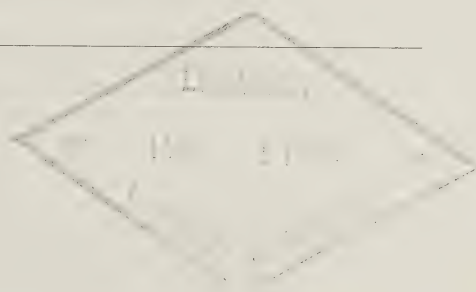
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BILL 58

Government
Publication
Government Bill

3RD SESSION, 31ST LEGISLATURE, ONTARIO
28 ELIZABETH II, 1979

An Act to amend
The Retail Sales Tax Act

THE HON. L. MAECK
Minister of Revenue



EXPLANATORY NOTES

GENERAL

The Bill implements the following proposals in the Treasurer's Budget:

- (a) The price of admission at which tax of 10 per cent becomes payable under the Act is raised from \$3.01 to \$3.51;
- (b) The tax of 7 per cent on taxable services is extended to the consumption of telecommunication services, including community antenna television and cable television systems, pay television, and microwave transmissions by fixed station or satellite;
- (c) The exemption from the 7 per cent rate of tax for hotels, motels, resorts, etc., providing transient accommodation, which was to expire at the end of 1979, is extended to March 31, 1981;
- (d) Provision is made to allow rebates of up to \$700 of tax paid on the purchase of parts and materials incorporated into solar heating systems in residential premises;
- (e) Candies, confections and soft drinks, which were previously exempt only when purchased for less than 21 cents, will now be exempt from tax when purchased for less than 50 cents. Packages or bags of candy and cartons or cases of soft drinks the purchase price of which exceeds 49 cents will remain taxable, as will the purchase of two or more packages or containers of candies, confections or soft drinks for a single price in excess of 49 cents;
- (f) A new exemption is to be granted for the purchase of clothing patterns, certain textiles and fabrics and for self-contained household smoke alarms for residential fire protection;
- (g) Exemption is also to be given for certain furnishings and food preparation equipment used in restaurants and hotels, provided such furnishings or equipment are sold and delivered in the period commencing on April 11, 1979 and ending on March 31, 1981.

In addition to these changes, other administrative changes are proposed that will clarify the application of the Act and the priorities of the Crown in the recovery of tax collected in trust under the Act. Also, the period within which refunds must be applied for under the Act is increased from two to three years for the refund of any payment made on or after April 11, 1977. Provision is also made to specify the time within which the reply of the Minister in appeal proceedings under the Act must be served.

SECTION 1. The amendment will include as a "taxable service" in paragraph 17 of section 1 of the Act the provision of telecommunication service, except public broadcasting services broadcast for reception through the air without charge. The amendment also adds to the Act a definition of "telecommunication". The clauses repealed by section 1 of the Bill now defined "taxable service" to include,

- (a) *telephone services, including long distance calls;*
- (b) *telegraph services, or*

An Act to amend The Retail Sales Tax Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Clauses *a* and *b* of paragraph 17 of section 1 of *The Retail Sales Tax Act*, being chapter 415 of the Revised Statutes of Ontario, 1970, are repealed and the following substituted therefor:

s. 1, par. 17(a),
re-enacted;
s. 1, par. 17(b),
repealed

- (a) telecommunication services of all kinds, including without restricting the generality of the foregoing, telephone and telegraph services, community antenna television and cable television, transmissions by microwave relay stations or by satellite, and pay television, but not including public broadcasting services that are broadcast through the air for direct reception by the public without charge; or

.

- (2) The said section 1, as amended by the Statutes of Ontario, 1973, chapter 23, section 1, 1975, chapter 9, section 1, 1976, chapter 23, section 1, 1976, chapter 82, section 1, 1977, chapter 13, section 1 and 1978, chapter 6, section 1, is further amended by adding thereto the following paragraph:

s. 1.
amended

- 17b. "telecommunication" means any transmission, emission or reception of signs, signals, writing, images or sound or intelligence of any nature by wire, radio, visual or other electromagnetic or laser-based system, but does not include any transmission, emission or reception or class thereof that is prescribed by the Minister to be excluded for the purpose of this paragraph.

s. 2 (4),
amended

- 2.—**(1) Subsection 4 of section 2 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 13, section 2, is amended by striking out “\$3.00” in the fourth line and inserting in lieu thereof “\$3.50”.

s. 2 (5a),
amended

- (2) Subsection 5a of the said section 2, as enacted by the Statutes of Ontario, 1976, chapter 82, section 2, is amended,

(a) by striking out “at the time of” in the twelfth line and inserting in lieu thereof “on the due date of”; and

(b) by striking out “made” in the thirteenth line.

s. 2 (8),
amended

- (3) Subsection 8 of the said section 2, as re-enacted by the Statutes of Ontario, 1975, chapter 9, section 2, is amended by striking out “two” in the third line and in the fifth line and inserting in lieu thereof in each instance “three”.

s. 2 (8b),
amended

- (4) Subsection 8b of the said section 2, as enacted by the Statutes of Ontario, 1975, chapter 9, section 2, is amended,

(a) by striking out “two” in the first line and inserting in lieu thereof “three”; and

(b) by striking out “two-year” in the eighth line and in the ninth line and inserting in lieu thereof in each instance “three-year”.

s. 2 (8c),
amended

- (5) Subsection 8c of the said section 2, as enacted by the Statutes of Ontario, 1976, chapter 23, section 2, is amended by striking out “two” in the fifth line and inserting in lieu thereof “three”.

s. 5 (1), par. 1,
re-enacted

- 3.—**(1) Paragraph 1 of subsection 1 of section 5 of the said Act is repealed and the following substituted therefor:

1. food products for human consumption, except candies, confections or soft drinks purchased for a price that exceeds 49 cents, or for a price that exceeds 49 cents and that is specified to be payable in the purchase of two or more items, packages, bags, cartons or containers thereof.

s. 5 (1), par. 41,
amended

- (2) Paragraph 41 of subsection 1 of the said section 5, as re-enacted by the Statutes of Ontario, 1978, chapter 6, section 2, is amended by striking out “December, 1979” in the third and fourth lines and in the tenth line and inserting in lieu thereof in each instance “March, 1981”.

SECTION 2.—Subsection 1. The amendment increases from \$3.01 to \$3.51 the price of admission at which the tax of 10 per cent imposed by the Act begins to be payable.

Subsection 2. Subsection 5a of section 2 of the Act now reads:

(5a) *Notwithstanding subsection 5 and section 9, where a purchaser,*

(a) *rents or leases from any person any taxable service at a sale in Ontario; or*

(b) *acquires tangible personal property at a sale that is the lease or rental to him of such tangible personal property without provision for the transfer to him of title thereto, or with the provision of such transfer only upon the exercise of an option or similar right to acquire such tangible personal property,*

the tax imposed by this Act shall be computed, paid and collected at the time of, and on the fair value of the consideration given in payment of, each rental payment made by or on behalf of the purchaser in respect of the lease or rental of such taxable service or tangible personal property, and tax shall, in addition, be computed, paid and collected at the time of, and on the fair value of the consideration given in payment for, each of the obtaining of any option or similar right to purchase the tangible personal property leased or rented or the exercising of any such option or similar right.

The amendment provides that the tax on rental payments is to be computed and paid when the rental payment becomes due under a lease rather than, as the case now is, when the payment is in fact made. The amendment will prevent persons from delaying the payment of the tax by delaying payment of the rent.

Subsections 3, 4 and 5. The amendments proposed in these subsections of the Bill will extend from two years to three years the period within which a person may apply for a refund of tax wrongly paid under the Act. The refund will apply to payments made on or after April, 11, 1977 so that refunds now barred by the two-year limitation will not be revived by the proposed amendment.

SECTION 3.—Subsection 1. Paragraph 1 of subsection 1 of section 5 of the Act now exempts the purchase of:

1. food products for human consumption except candies and other confections and soft drinks.

The amendment proposed will exempt candies, confections or soft drinks that are purchased for 49 cents or less, but the exemption will not apply to packages or cartons of these items purchased for more than 49 cents or to two or more packages or containers of candies, confections or soft drinks that are purchased for a single price that exceeds 49 cents.

Subsections 2 and 3. The present exemption from tax for transient accommodation, which was enacted last year and was due to expire at the end of this year, is extended to March 31, 1981. A reference to the "modified American plan" is added to the exemption in paragraph 41a of subsection 1 of section 5 of the Act to make clear in the Act the interpretation of the Ministry that "American plan" includes "modified American plan" accommodation.

Subsection 4. The new amendments provide exemptions for the purchase of clothing patterns, textiles and accessories, household smoke alarms, and certain furnishings and food preparation equipment used in hotels, restaurants, etc.

This exemption for furnishings and food preparation equipment is limited to furnishings and equipment sold and delivered in the period April 11, 1979 to March 31, 1981.

SECTION 4. The exemptions from admissions tax contained in the subsections repealed by the amendment are replaced by a differently-based exemption set out in the new amendment. All charitable, religious-educational and non-profit organizations qualifying under the proposed subsection 2 will be entitled to hold performances, exhibitions, etc., in a place of amusement and the purchaser is exempt from admissions tax if the organization satisfies the requirements of the proposed amendment. This will substitute for the present system of applications to the Minister a clearer description of the application of the exemption that should enable most organizations to determine quickly whether the events they plan to sponsor or hold will be exempt from admissions tax. The proposed amendment should considerably reduce the administrative time now required to determine exemption under the present section 7 of the Act.

The subsections to be repealed by the proposed amendment read as follows:

- (2) *Where special circumstances exist, whether of a religious, charitable or educational nature or otherwise, the Lieutenant Governor in Council may, upon application of the vendor made to the Minister at least ten days before the tax would otherwise be payable, exempt the purchaser from the payment and the vendor from collection of the tax imposed by subsection 4 of section 2.*
- (3) *Where it is shown to the satisfaction of the Minister that the tax calculated on the price of admission to a place of amusement at or in which an entertainment has been held for the purpose of raising funds for religious, charitable or educational purposes was collected and paid to Her Majesty in right of Ontario in accordance with subsection 4 of section 2, and where the vendor files with the Minister a statement, verified by his affidavit, giving in detail all receipts and expenses in connection with the entertainment and the receipt of the organization to which the proceeds were donated acknowledging receipt of the proceeds is attached thereto, and where the Minister is satisfied that the organization is one whose operations are carried on exclusively for religious, charitable or educational purposes or for any combination of such purposes, there may be paid to the organization an amount equal to that proportion of the tax so collected and paid which the proceeds acknowledged as received by the organization bear to the gross amount received by the vendor as the price of admission to such place of amusement.*

- (3) Paragraph 41*a* of subsection 1 of the said section 5, as enacted by the Statutes of Ontario, 1978, chapter 6, section 2, is amended, ^{s. 5 (1), par. 41*a*, amended}

(*a*) by striking out "December, 1979" in the third line and inserting in lieu thereof "March, 1981"; and

(*b*) by adding at the end thereof "or 'modified American Plan'".

- (4) Subsection 1 of the said section 5, as amended by the Statutes of Ontario, 1972, chapter 21, section 1, 1973, chapter 23, section 4, 1974, chapter 7, section 2, 1975, chapter 9, section 4, 1976, chapter 23, section 3, 1976, chapter 82, section 3, 1977, chapter 13, section 4 and 1978, chapter 6, section 2, is further amended by adding thereto the following paragraphs: ^{s. 5 (1), amended}

67. patterns for the making of clothing or wearing apparel;

68. textiles, as defined by the Minister, and trimmings therefor, as defined by the Minister, but not including floor coverings, canvas, plastics of any kind, metal cloth, natural or synthetic fur and leather, or thread, wool, yarn and similar materials for sewing, knitting, crocheting and similar handicrafts, or any material or product prescribed by the Minister to be excluded from the exemption conferred by this paragraph;

69. self-contained household smoke alarms purchased for use in residential premises;

70. furnishings, as defined by the Minister, or food preparation equipment, as defined by the Minister, when purchased for use in restaurants of the class or type prescribed by the Minister, or purchased for use in any hotel, motel, tourist resort or other similar tourist establishment, of the class or description prescribed by the Minister, provided that such furnishings or food preparation equipment is sold to, and delivery thereof is taken by, the purchaser wholly within the period commencing on the 11th day of April, 1979 and ending with the 31st day of March, 1981.

4. Subsections 2, 3, 3*a*, as enacted by the Statutes of Ontario, 1974, chapter 7, section 3, and subsection 4 of section 7 of the said Act are repealed and the following substituted therefor: ^{s. 7 (2), re-enacted; s. 7 (3, 3*a*, 4), repealed}

Exemption
from tax on
admissions

(2) The tax imposed by subsection 4 of section 2 is not payable in respect of the price of admission to any entertainment, event, dance, performance or exhibition staged or held in a place of amusement by, or under the auspices or sponsorship of,

R.S.C. 1952,
c. 148

(a) a registered Canadian amateur athletic association, as defined by paragraph *b* of subsection 8 of section 110 of the *Income Tax Act* (Canada), including a branch or affiliate association to which the registration under that Act of the Canadian amateur athletic association of which it is a branch or affiliate has been extended;

(b) a registered charity, as defined by paragraph *c* of subsection 8 of section 110 of the *Income Tax Act* (Canada);

(c) a labour organization or society, or a benevolent or fraternal benefit society or order;

R.S.O. 1970,
c. 15

(d) an agricultural society constituted pursuant to *The Agricultural Societies Act*;

(e) an educational institution;

(f) a club, society, association, chamber of commerce or board of trade organized and operated for any purpose except profit, no part of the income of which was payable to, or was otherwise available for the personal benefit of, any proprietor, member or shareholder thereof except a proprietor, member or shareholder that is a club, society or association the primary purpose and function of which is the promotion of amateur athletics in Canada; or

(g) an organization that is substantially assisted or supported financially from public funds of the Province of Ontario and that is prescribed by the Minister for the purpose of this subsection.

s. 11 (1),
amended

5. Subsection 1 of section 11 of the said Act, as enacted by the Statutes of Ontario, 1975, chapter 9, section 5 and amended by the Statutes of Ontario, 1977, chapter 13, section 5, is further amended by striking out "For the period commencing on the 1st day of July, 1975 and ending with the 31st day of March, 1976, and thereafter" in the first, second and third lines.

s. 18 (2),
amended

6.—(1) Subsection 2 of section 18 of the said Act, as enacted by the Statutes of Ontario, 1977, chapter 13, section 6, is

- (3a) *Where it is shown to the satisfaction of the Minister that the tax calculated on the price of admission to a place of amusement, which is a community centre as defined in and for which aid has been granted under The Community Centres Act, at or in which an entertainment has been held by a municipality, was collected and paid to Her Majesty in right of Ontario in accordance with subsection 4 of section 2 and where the municipality files with the Minister a statement, verified by affidavit, giving in detail all receipts and expenses in connection with the entertainment and satisfies the Minister that the net proceeds were for the benefit of the municipality, there may be paid to the municipality an amount equal to that proportion of the tax so collected and paid which the net proceeds from admissions received by the municipality bear to the gross amount received by the municipality as the price of admission to such place of amusement.*
- (4) *Where application of the vendor is made to the Minister at least ten days before the tax imposed by subsection 4 of section 2 would otherwise be payable and the Minister is satisfied that the performers in a theatrical or musical performance in a place of amusement are residents of Canada performing under the management of a person resident in Canada and that the performance will not be presented with the showing of a motion picture or with a carnival, circus, side show, menagerie, rodeo, exhibition, horse race, athletic contest or other performance, the Minister may, in his absolute discretion, exempt the purchaser from the payment and the vendor from the collection of the tax imposed by subsection 4 of section 2.*

SECTION 5. The words deleted by the amendment refer to a period in 1975 and 1976 that is no longer relevant in the computation of vendors' compensation.

SECTION 6. Tax under the Act that is collected by a vendor is deemed to be trust money held by him for the Crown. The changes proposed by the amendments clarify the priorities between the Crown and other creditors of the vendor with respect to this trust money that has been collected but not remitted to the Crown. The amendments provide that, for the money deemed to be held in trust for the Crown by any receiver, liquidator, etc., the Crown will have priority over floating charges that did not crystallize until the liquidation proceedings began or general assignments of book debts where notice of the assignment was not given by the assignee prior to the commencement of liquidation proceedings. The amendments also make clear that fixed charges of secured creditors on specific property that were given before the commencement of liquidation proceedings have priority over the amount deemed by section 18 (2) to be held in trust for the Crown.

The amendments also provide for the giving of notice to the Minister of a commencement of liquidation proceedings, and require the Minister to inform the interested parties of the amount of the Crown's claim for trust money under subsection 2 of section 18 of the Act.

amended by inserting after "proceedings" where it occurs the first time in the fourth line "sale by a secured creditor" and by adding at the end thereof "and the amount deemed by this subsection to be separate from, and to form no part of the estate or property in liquidation, shall be paid out of cash and the proceeds of the realization of the vendor's property and the said claim shall be paid in priority to all other claims except those described by subsection 4 to be claims to which this subsection is not applicable".

- (2) Subsection 3 of the said section 18, as enacted by the ^{s. 18 (3),} Statutes of Ontario, 1977, chapter 13, section 6, is amended ^{amended} by inserting after "receiver-manager" in the second line and in the fourteenth line "secured creditor or duly authorized agent of a secured creditor,".

- (3) Section 18 of the said Act, as amended by the Statutes ^{s. 18,} of Ontario, 1975, chapter 9, section 7 and 1977, chapter 13, ^{amended} section 6, is further amended by adding thereto the following subsections:

(4) Subsection 2 does not apply to claims made against ^{Where subs. 2} the specific property of a vendor under fixed charges, ^{not} mortgages and assignments where the specific property is ^{applicable} identified by description in the agreements pursuant to which the security was given and does not apply to claims made against accounts receivable of the vendor that were assigned or mortgaged for value under a general assignment of book debts or security agreement registered under *The Personal Property Security Act* where the assignee or ^{R.S.O. 1970,} mortgagee has given notice to the vendor's debtor of his ^{c. 344} assignment or interest and legal entitlement to the debts in question and has directed the vendor's debtor to pay the debt to it or where the assignee or mortgagee is in actual receipt of the proceeds of the debts prior to the date when the vendor lost control or possession of his property.

(5) The amount deemed by subsection 2 to be separate ^{Priorities} from, and to form no part, of the estate or property in liquidation shall be paid in priority to claims against all property of the vendor acquired after the date when the vendor gave a fixed charge, mortgage or assignment of specific property and which property by the terms of the fixed charge, mortgage or assignment is to be included in the said security once acquired by the vendor and claims against all property of the vendor secured under a floating instrument purporting to charge the property of the vendor in existence at the date when the security instrument was given as well as property of the vendor acquired after that date.

Notice to be
given

(6) For the purpose of enabling the Minister to determine the amount that by subsection 2 is deemed to be separate from, and to form no part of, the estate or property in liquidation, every person who as assignee, liquidator, administrator, receiver, receiver-manager, secured creditor or duly authorized agent of a secured creditor, trustee or other like person, other than a trustee in bankruptcy, takes control or possession of the property of any vendor holding a valid and subsisting permit issued under section 3, shall within thirty days from the date of his assumption of possession or control give written notice thereof to the Minister.

Minister to
advise of
indebtedness

(7) As soon as possible after receiving such notice, the Minister shall advise the person described in subsection 6 of the amount of taxes collected by the vendor in the one year immediately preceding the date when the vendor lost control or possession of his property and not remitted to the Treasurer as required by subsection 1.

Interpre-
tation

(8) For the purposes of subsections 2 and 6, "estate" and "property" means all the assets of the vendor, real and personal, tangible and intangible, whether subject to liens, charges or encumbrances or whether free and clear of such claims, and without limiting the generality of the foregoing, includes lands, accounts receivable, claims demands, inventory, chattels, equipment, mortgages, leases and generally all the vendor's undertaking, property and assets, of whatsoever nature and kind and wheresoever situate in Ontario.

s. 21,
re-enacted

7. Section 21 of the said Act is repealed and the following substituted therefor:

Reply to
notice of
appeal

21. The Minister shall with all due dispatch serve on the person appealing and file in the court a reply to the notice of appeal admitting or denying the facts alleged and containing a statement of such further allegations of fact and all statutory provisions and reasons as he intends to rely on, and where the Minister has failed to serve the reply within 180 days from the date of service upon him of the notice under subsection 6 of section 20, the appellant may, upon twenty-one days notice to the Minister, apply to a judge of the Supreme Court for an order requiring the reply to be served within such time as the judge shall order, and the judge may, if he considers it proper in the circumstances, also order that, upon failure by the Minister to serve the reply in the time specified in the order, the assessment with respect to which the appeal is taken shall be vacated and any tax paid pursuant to such assessment shall be repaid to the appellant, but nothing in this section revives an appeal that is void

SECTION 7. The proposed amendment specifies the time within which the reply of the Minister is to be served and provides a procedure where the reply is not served as required.

SECTION 8. The clause added by the proposed amendment will enable the Minister to make regulations providing for the rebate of not more than \$700 of tax paid on the purchase of parts and materials for a solar heating system in residential premises.

or affects a statement or assessment that has become valid and binding under subsection 8 of section 15 or subsection 7 of section 15a.

8. Subsection 3 of section 42 of the said Act, as enacted by the Statutes of Ontario, 1975, chapter 9, section 11 and amended by 1976, chapter 23, section 12 and 1976, chapter 82, section 4, is further amended by adding thereto the following clause:

(h) providing for the rebate of not more than \$700 of tax paid on the purchase of parts and materials incorporated into the construction of a solar heating system for residential premises, and prescribing the meaning of the expression "solar heating system", the conditions upon which and the class of persons to whom such rebate may be made, and the type of residential premises in which the installation of such solar heating system may qualify for the rebate.

- 9.—(1) This Act, except section 1, subsections 1, 3, 4 and 5 of section 2, subsections 1 and 4 of section 3, sections 4, 7 and 8, comes into force on the day it receives Royal Assent.

(2) Section 1, subsection 1 of section 2, subsections 1 and 4 of section 3 and section 8 shall be deemed to have come into force on the 11th day of April, 1979.

(3) Subsections 3, 4 and 5 of section 2 shall be deemed to have come into force on the 11th day of April, 1979 and to apply only where the payment, a refund of which is sought, was made on or after the 11th day of April, 1977.

(4) Section 7 shall be deemed to have come into force on the 11th day of April, 1979 and to apply to appeals instituted on or after that date.

(5) Section 4 comes into force on the 1st day of July, 1979.

10. The short title of this Act is *The Retail Sales Tax Amendment Act, 1979*.

An Act to amend
The Retail Sales Tax Act

1st Reading

April 10th, 1979

2nd Reading

3rd Reading

THE HON. L. MAECK
Minister of Revenue

(Government Bill)

3
17 BILL 58

3RD SESSION, 31ST LEGISLATURE, 5 ONTARIO
28 ELIZABETH II, 1979 7/Registration Number 11

**An Act to amend
The Retail Sales Tax Act**

THE HON. L. MAECK
Minister of Revenue



An Act to amend The Retail Sales Tax Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Clauses *a* and *b* of paragraph 17 of section 1 of *The Retail Sales Tax Act*, being chapter 415 of the Revised Statutes of Ontario, 1970, are repealed and the following substituted therefor:

s. 1, par. 17(a),
re-enacted;
s. 1, par. 17(b),
repealed

- (a) telecommunication services of all kinds, including without restricting the generality of the foregoing, telephone and telegraph services, community antenna television and cable television, transmissions by microwave relay stations or by satellite, and pay television, but not including public broadcasting services that are broadcast through the air for direct reception by the public without charge; or

.

- (2) The said section 1, as amended by the Statutes of Ontario, 1973, chapter 23, section 1, 1975, chapter 9, section 1, 1976, chapter 23, section 1, 1976, chapter 82, section 1, 1977, chapter 13, section 1 and 1978, chapter 6, section 1, is further amended by adding thereto the following paragraph:

s. 1,
amended

- 17b. "telecommunication" means any transmission, emission or reception of signs, signals, writing, images or sound or intelligence of any nature by wire, radio, visual or other electromagnetic or laser-based system, but does not include any transmission, emission or reception or class thereof that is prescribed by the Minister to be excluded for the purpose of this paragraph.

s. 2 (4),
amended

- 2.—(1) Subsection 4 of section 2 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 13, section 2, is amended by striking out “\$3.00” in the fourth line and inserting in lieu thereof “\$3.50”.

s. 2 (5a),
amended

- (2) Subsection 5a of the said section 2, as enacted by the Statutes of Ontario, 1976, chapter 82, section 2, is amended,

(a) by striking out “at the time of” in the twelfth line and inserting in lieu thereof “on the due date of”; and

(b) by striking out “made” in the thirteenth line.

s. 2 (8),
amended

- (3) Subsection 8 of the said section 2, as re-enacted by the Statutes of Ontario, 1975, chapter 9, section 2, is amended by striking out “two” in the third line and in the fifth line and inserting in lieu thereof in each instance “three”.

s. 2 (8b),
amended

- (4) Subsection 8b of the said section 2, as enacted by the Statutes of Ontario, 1975, chapter 9, section 2, is amended,

(a) by striking out “two” in the first line and inserting in lieu thereof “three”; and

(b) by striking out “two-year” in the eighth line and in the ninth line and inserting in lieu thereof in each instance “three-year”.

s. 2 (8c),
amended

- (5) Subsection 8c of the said section 2, as enacted by the Statutes of Ontario, 1976, chapter 23, section 2, is amended by striking out “two” in the fifth line and inserting in lieu thereof “three”.

s. 5 (1), par. 1,
re-enacted

- 3.—(1) Paragraph 1 of subsection 1 of section 5 of the said Act is repealed and the following substituted therefor:

1. food products for human consumption, except candies, confections or soft drinks purchased for a price that exceeds 49 cents, or for a price that exceeds 49 cents and that is specified to be payable in the purchase of two or more items, packages, bags, cartons or containers thereof.

s. 5 (1), par. 41,
amended

- (2) Paragraph 41 of subsection 1 of the said section 5, as re-enacted by the Statutes of Ontario, 1978, chapter 6, section 2, is amended by striking out “December, 1979” in the third and fourth lines and in the tenth line and inserting in lieu thereof in each instance “March, 1981”.

- (3) Paragraph 41a of subsection 1 of the said section 5, as enacted by the Statutes of Ontario, 1978, chapter 6, section 2, is amended, ^{s. 5 (1), par. 41a, amended}

(a) by striking out "December, 1979" in the third line and inserting in lieu thereof "March, 1981"; and

(b) by adding at the end thereof "or 'modified American Plan'".

- (4) Subsection 1 of the said section 5, as amended by the Statutes of Ontario, 1972, chapter 21, section 1, 1973, chapter 23, section 4, 1974, chapter 7, section 2, 1975, chapter 9, section 4, 1976, chapter 23, section 3, 1976, chapter 82, section 3, 1977, chapter 13, section 4 and 1978, chapter 6, section 2, is further amended by adding thereto the following paragraphs: ^{s. 5 (1), amended}

67. patterns for the making of clothing or wearing apparel;

68. textiles, as defined by the Minister, and trimmings therefor, as defined by the Minister, but not including floor coverings, canvas, plastics of any kind, metal cloth, natural or synthetic fur and leather, or thread, wool, yarn and similar materials for sewing, knitting, crocheting and similar handicrafts, or any material or product prescribed by the Minister to be excluded from the exemption conferred by this paragraph;

69. self-contained household smoke alarms purchased for use in residential premises;

70. furnishings, as defined by the Minister, or food preparation equipment, as defined by the Minister, when purchased for use in restaurants of the class or type prescribed by the Minister, or purchased for use in any hotel, motel, tourist resort or other similar tourist establishment, of the class or description prescribed by the Minister, provided that such furnishings or food preparation equipment is sold to, and delivery thereof is taken by, the purchaser wholly within the period commencing on the 11th day of April, 1979 and ending with the 31st day of March, 1981.

4. Subsections 2, 3, 3a, as enacted by the Statutes of Ontario, 1974, chapter 7, section 3, and subsection 4 of section 7 of the said Act are repealed and the following substituted therefor: ^{s. 7 (2), re-enacted; s. 7 (3, 3a, 4), repealed}

Exemption
from tax on
admissions

(2) The tax imposed by subsection 4 of section 2 is not payable in respect of the price of admission to any entertainment, event, dance, performance or exhibition staged or held in a place of amusement by, or under the auspices or sponsorship of,

R.S.C. 1952,
c. 148

(a) a registered Canadian amateur athletic association, as defined by paragraph *b* of subsection 8 of section 110 of the *Income Tax Act* (Canada), including a branch or affiliate association to which the registration under that Act of the Canadian amateur athletic association of which it is a branch or affiliate has been extended;

(b) a registered charity, as defined by paragraph *c* of subsection 8 of section 110 of the *Income Tax Act* (Canada);

(c) a labour organization or society, or a benevolent or fraternal benefit society or order;

R.S.O. 1970,
c. 15

(d) an agricultural society constituted pursuant to *The Agricultural Societies Act*;

(e) an educational institution;

(f) a club, society, association, chamber of commerce or board of trade organized and operated for any purpose except profit, no part of the income of which was payable to, or was otherwise available for the personal benefit of, any proprietor, member or shareholder thereof except a proprietor, member or shareholder that is a club, society or association the primary purpose and function of which is the promotion of amateur athletics in Canada; or

(g) an organization that is substantially assisted or supported financially from public funds of the Province of Ontario and that is prescribed by the Minister for the purpose of this subsection.

s. 11 (1),
amended

5. Subsection 1 of section 11 of the said Act, as enacted by the Statutes of Ontario, 1975, chapter 9, section 5 and amended by the Statutes of Ontario, 1977, chapter 13, section 5, is further amended by striking out "For the period commencing on the 1st day of July, 1975 and ending with the 31st day of March, 1976, and thereafter" in the first, second and third lines.

s. 18 (2),
amended

6.—(1) Subsection 2 of section 18 of the said Act, as enacted by the Statutes of Ontario, 1977, chapter 13, section 6, is

amended by inserting after "proceedings" where it occurs the first time in the fourth line "sale by a secured creditor" and by adding at the end thereof "and the amount deemed by this subsection to be separate from, and to form no part of the estate or property in liquidation, shall be paid out of cash and the proceeds of the realization of the vendor's property and the said claim shall be paid in priority to all other claims except those described by subsection 4 to be claims to which this subsection is not applicable".

- (2) Subsection 3 of the said section 18, as enacted by the Statutes of Ontario, 1977, chapter 13, section 6, is amended ^{s. 18 (3), amended} by inserting after "receiver-manager" in the second line and in the fourteenth line "secured creditor or duly authorized agent of a secured creditor,".

- (3) Section 18 of the said Act, as amended by the Statutes ^{s. 18, amended} of Ontario, 1975, chapter 9, section 7 and 1977, chapter 13, section 6, is further amended by adding thereto the following subsections:

(4) Subsection 2 does not apply to claims made against ^{Where subs. 2 not applicable} the specific property of a vendor under fixed charges, mortgages and assignments where the specific property is identified by description in the agreements pursuant to which the security was given and does not apply to claims made against accounts receivable of the vendor that were assigned or mortgaged for value under a general assignment of book debts or security agreement registered under *The Personal Property Security Act* where the assignee or ^{R.S.O. 1970, c. 344} mortgagee has given notice to the vendor's debtor of his assignment or interest and legal entitlement to the debts in question and has directed the vendor's debtor to pay the debt to it or where the assignee or mortgagee is in actual receipt of the proceeds of the debts prior to the date when the vendor lost control or possession of his property.

- (5) The amount deemed by subsection 2 to be separate ^{Priorities} from, and to form no part, of the estate or property in liquidation shall be paid in priority to claims against all property of the vendor acquired after the date when the vendor gave a fixed charge, mortgage or assignment of specific property and which property by the terms of the fixed charge, mortgage or assignment is to be included in the said security once acquired by the vendor and claims against all property of the vendor secured under a floating instrument purporting to charge the property of the vendor in existence at the date when the security instrument was given as well as property of the vendor acquired after that date.

Notice to be
given

(6) For the purpose of enabling the Minister to determine the amount that by subsection 2 is deemed to be separate from, and to form no part of, the estate or property in liquidation, every person who as assignee, liquidator, administrator, receiver, receiver-manager, secured creditor or duly authorized agent of a secured creditor, trustee or other like person, other than a trustee in bankruptcy, takes control or possession of the property of any vendor holding a valid and subsisting permit issued under section 3, shall within thirty days from the date of his assumption of possession or control give written notice thereof to the Minister.

Minister to
advise of
indebtedness

(7) As soon as possible after receiving such notice, the Minister shall advise the person described in subsection 6 of the amount of taxes collected by the vendor in the one year immediately preceding the date when the vendor lost control or possession of his property and not remitted to the Treasurer as required by subsection 1.

Interpre-
tation

(8) For the purposes of subsections 2 and 6, "estate" and "property" means all the assets of the vendor, real and personal, tangible and intangible, whether subject to liens, charges or encumbrances or whether free and clear of such claims, and without limiting the generality of the foregoing, includes lands, accounts receivable, claims demands, inventory, chattels, equipment, mortgages, leases and generally all the vendor's undertaking, property and assets, of whatsoever nature and kind and wheresoever situate in Ontario.

s. 21,
re-enacted

7. Section 21 of the said Act is repealed and the following substituted therefor:

Reply to
notice of
appeal

21. The Minister shall with all due dispatch serve on the person appealing and file in the court a reply to the notice of appeal admitting or denying the facts alleged and containing a statement of such further allegations of fact and all statutory provisions and reasons as he intends to rely on, and where the Minister has failed to serve the reply within 180 days from the date of service upon him of the notice under subsection 6 of section 20, the appellant may, upon twenty-one days notice to the Minister, apply to a judge of the Supreme Court for an order requiring the reply to be served within such time as the judge shall order, and the judge may, if he considers it proper in the circumstances, also order that, upon failure by the Minister to serve the reply in the time specified in the order, the assessment with respect to which the appeal is taken shall be vacated and any tax paid pursuant to such assessment shall be repaid to the appellant, but nothing in this section revives an appeal that is void

or affects a statement or assessment that has become valid and binding under subsection 8 of section 15 or subsection 7 of section 15a.

8. Subsection 3 of section 42 of the said Act, as enacted by the Statutes of Ontario, 1975, chapter 9, section 11 and amended by 1976, chapter 23, section 12 and 1976, chapter 82, section 4, is further amended by adding thereto the following clause:

(h) providing for the rebate of not more than \$700 of tax paid on the purchase of parts and materials incorporated into the construction of a solar heating system for residential premises, and prescribing the meaning of the expression "solar heating system", the conditions upon which and the class of persons to whom such rebate may be made, and the type of residential premises in which the installation of such solar heating system may qualify for the rebate.

- 9.—(1) This Act, except section 1, subsections 1, 3, 4 and 5 of section 2, subsections 1 and 4 of section 3, sections 4, 7 and 8, comes into force on the day it receives Royal Assent. ^{s. 42 (3), amended}

(2) Section 1, subsection 1 of section 2, subsections 1 and 4 of section 3 and section 8 shall be deemed to have come into force on the 11th day of April, 1979. ^{Idem}

(3) Subsections 3, 4 and 5 of section 2 shall be deemed to have come into force on the 11th day of April, 1979 and to apply only where the payment, a refund of which is sought, was made on or after the 11th day of April, 1977. ^{Idem}

(4) Section 7 shall be deemed to have come into force on the 11th day of April, 1979 and to apply to appeals instituted on or after that date. ^{Idem}

(5) Section 4 comes into force on the 1st day of July, 1979. ^{Idem}

10. The short title of this Act is *The Retail Sales Tax Amendment Act, 1979*. ^{Short title}

An Act to amend
The Retail Sales Tax Act

1st Reading

April 10th, 1979

2nd Reading

May 1st, 1979

3rd Reading

May 8th, 1979

THE HON. L. MAECK
Minister of Revenue

K13
- 1956

BILL 59

Government
Publication
Government Bill

3RD SESSION, 31ST LEGISLATURE, ONTARIO
28 ELIZABETH II, 1979

**An Act to amend
The Corporations Tax Act, 1972**

THE HON. L. MAECK
Minister of Revenue

TORONTO

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EXPLANATORY NOTES

SECTION 1. This section amends subsection 7 of section 7 of the Act to add a reference therein to "territory" so that the definition of permanent establishment will be extended to include land owned in a territory of Canada.

SECTION 2. Subsection 1 amends subsection 6 of section 14 of the Act and is complementary to the amendment made by section 7 of the Bill.

Subsection 2 repeals subsection 11 of section 14 of the Act relating to non-capital loss on the disposition of the shares of a Venture Investment Corporation. This subsection together with section 3, subsection 2 of section 4, section 5 and section 6 of the Bill repeal all of the provisions in the Act relating to Venture Investment Corporations. These amendments are made in conjunction with the program to be introduced by the Treasurer of Ontario with respect to Small Business Development Corporations.

SECTION 3. This section repeals subsection 5 of section 15 of the Act relating to capital loss on the disposition of shares of a Venture Investment Corporation, and this amendment is made in conjunction with the program with respect to Small Business Development Corporations.

SECTION 4. Subsection 1 of this section re-enacts clause *b* of subsection 3 of section 16 of the Act to include in a corporation's income the reserve, deducted in the immediately preceding year under section 18 of the Act, for proceeds not received on the sale of property and services the cost of which was a Canadian Exploration and Development expense.

Subsection 2 of this section repeals subsections 4, 5 and 6 of section 16 of the Act relating to the disposition of shares of a Venture Investment Corporation, and this amendment is made in conjunction with the program to be introduced by the Treasurer of Ontario with respect to Small Business Development Corporations.

BILL 59

1979

An Act to amend The Corporations Tax Act, 1972

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 7 of section 7 of *The Corporations Tax Act, 1972*, being chapter 143, is repealed and the following substituted therefor: s. 7 (7),
re-enacted

(7) Where a corporation, otherwise having a permanent establishment in Canada, owns land in a province or territory of Canada, such land is a permanent establishment. Idem

- 2.—(1) Subsection 6 of section 14 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 58, section 8 and amended by 1978, chapter 21, section 1, is further amended by striking out "5/13ths" in the amendment of 1978 and inserting in lieu thereof "5/14ths". s. 14 (6),
amended

- (2) Subsection 11 of the said section 14 is repealed. s. 14 (11),
repealed

3. Subsection 5 of section 15 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 58, section 8, is repealed. s. 15 (5),
repealed

- 4.—(1) Clause *b* of subsection 3 of section 16 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 58, section 8, is repealed and the following substituted therefor: s. 16 (3) (b),
re-enacted

(b) there shall be included in computing a corporation's income for a taxation year any amount that has been deducted under section 18 in computing the corporation's income for the immediately preceding taxation year. Amount
deducted
under s. 18 in
preceding year

- (2) Subsections 4, 5 and 6 of the said section 16 are repealed. s. 16 (4, 5, 6),
repealed

s. 25 (5),
repealed

5. Subsection 5 of section 25 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 58, section 8, is repealed.

s. 31,
repealed

6. Section 31 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 58, section 8, is repealed.

s. 33,
amended

7. Section 33 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 58, section 8 and amended by 1978, chapter 21, section 2, is further amended by striking out "13 per cent" in the amendment of 1978 and inserting in lieu thereof "14 per cent".

s. 34,
amended

8. Section 34 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 58, section 8 and amended by 1978, chapter 21, section 3, is further amended by striking out "13 per cent" in the amendment of 1978 and inserting in lieu thereof "14 per cent".

s. 35 (1) (e),
amended

9.—(1) Clause *e* of subsection 1 of section 35 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 58, section 8 and amended by 1978, chapter 21, section 4, is further amended by striking out "13 per cent" in the amendment of 1978 and inserting in lieu thereof "14 per cent".

s. 35 (1) (f) (i),
re-enacted

(2) Subclause *i* of clause *f* of subsection 1 of the said section 35 is repealed and the following substituted therefor:

- (i) that portion of the income or profits tax paid for the taxation year by the corporation to the jurisdiction outside Canada in respect of the foreign investment income referred to in clause *e*, that was not deducted, by virtue of subsection 12 of section 20 of the *Income Tax Act* (Canada) for the purposes of that Act or for the purposes of this Act by virtue of that subsection as made applicable by section 14 of this Act, in computing the corporation's income for the year, and

R.S.C. 1952,
c. 148

s. 36 (1),
amended

10.—(1) Subsection 1 of section 36 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 58, section 8, is amended by striking out "3 per cent" in the fifth line and inserting in lieu thereof "4 per cent".

s. 36 (5),
re-enacted

(2) Subsection 5 of the said section 36 is repealed and the following substituted therefor:

SECTIONS 5, 6. These sections repeal subsection 5 of section 25 (transfer of VIC shares on amalgamation) and section 31 of the Act (purchase of VIC shares), respectively, relating to Venture Investment Corporations, and these amendments are made in conjunction with the program to be introduced by the Treasurer of Ontario with respect to Small Business Development Corporations.

SECTION 7. This section amends section 33 of the Act to increase the rate of tax on income under the Act to 14 per cent. The existing rate is 13 per cent. This new rate will come into force on April 11, 1979 and will be pro-rated for taxation years that commence before that date and end on or after that date.

SECTION 8. This section amends section 34 of the Act to increase the rate used for the allocation of the tax on income earned outside Ontario. This amendment is complementary to the amendment made by section 7 of the Bill.

SECTION 9. Subsection 1 of this section amends clause *e* of subsection 1 of section 35 of the Act to increase the amount of foreign tax credit allowed. This adjustment to the foreign tax credit is required as a result of the increase in the tax rate provided in the amendment made by section 7 of the Bill.

Subsection 2 of this section re-enacts subclause *i* of clause *f* of subsection 1 of section 35 of the Act to prevent the foreign tax deduction being claimed with respect to foreign tax on non-business income for which a deduction is claimed by a corporation under subsection 12 of section 20 of the *Income Tax Act* (Canada). This amendment will prevent a double deduction with respect to the same foreign tax and parallels the corresponding amendment to the *Income Tax Act* (Canada).

SECTION 10. This section amends section 36 of the Act which provides for the small business deduction.

Subsection 1 of this section amends subsection 1 of the said section 36 to increase the deduction to 4 per cent (previously was 3 per cent) so that the effective rate on small business income will remain at 10 per cent. This amendment is complementary to the amendment made by section 7 of this Bill.

Subsection 2 of this section amends subsection 5 of the said section 36 to include a reference to the new section 36*a* of the Act being enacted by section 11 of the Bill.

SECTION 11. This section adds a new section 36*a* to the Act to provide a deduction from the tax otherwise payable of 1 per cent of the Ontario portion of "eligible Canadian profits" from manufacturing and processing, mining, farming, logging and fishing (to be defined by regulation) so that the effective rate of tax on such profits will remain at 13 per cent.

(5) In this section, "tax otherwise payable under this Part" means the tax for the taxation year otherwise payable by the corporation under this Part after making any deduction applicable under sections 34 and 35, but before making any deduction under this section or section 36a. Interpre-
tation

11. The said Act is amended by adding thereto the following s. 36a,
enacted
section:

36a.—(1) There may be deducted from the tax otherwise payable under this Part for a taxation year by a corporation an amount equal to 1 per cent of that proportion of the amount determined under subsection 2 that, Tax credit
for eligible
profits

- (a) that portion of its taxable income or taxable income earned in Canada, as the case may be, for the year remaining after deducting therefrom that portion thereof which is earned in the taxation year in jurisdictions other than Ontario as determined for the purpose of section 34,

is of

- (b) the aggregate of the portions of its taxable income or taxable income earned in Canada, as the case may be, for the taxation year which were earned in the provinces or territories of Canada as determined for the purpose of section 34.

(2) For the purpose of subsection 1, the amount determined under this subsection is the lesser of, Idem

- (a) the amount, if any, by which the corporation's eligible Canadian profits for the year exceeds the least of the amounts determined under paragraphs *a*, *b*, *c* and *d* of subsection 1 of section 125 of the *Income Tax Act* (Canada) in respect of the corporation for the year; and R.S.C. 1952,
c. 148
- (b) the amount, if any, by which the corporation's taxable income for the year exceeds the aggregate of,
 - (i) the least of the amounts determined under paragraphs *a*, *b*, *c* and *d* of subsection 1 of section 125 of the *Income Tax Act* (Canada) in respect of the corporation for the year,
 - (ii) the amount, if any, of that portion of the corporation's taxable income for the year

which is earned in jurisdictions outside Canada as determined for the purpose of section 34, and

- (iii) the amount, if any, by which the aggregate of the corporation's Canadian investment income for the year and its foreign investment income for the year, as defined in subsection 4 of section 129 of the *Income Tax Act* (Canada), exceeds the amount, if any, deducted under paragraph *b* of subsection 1 of section 111 of that Act as made applicable by section 29, from the corporation's income for the year.

Interpre-
tation
eligible
Canadian
profits

(3) For the purposes of subsection 2, "eligible Canadian profits" of a corporation for a taxation year means such portion of the aggregate of all amounts each of which is the income of the corporation for the year from manufacturing and processing, mining, farming, logging or fishing carried on in Canada as is determined under rules prescribed for that purpose by the regulations.

s. 41 (2, 4, 5),
re-enacted

- 12.** Subsections 2, 4 and 5 of section 41 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 58, section 8 and amended by 1978, chapter 21, section 5, are repealed and the following substituted therefor:

Idem

(2) In the application of subparagraph *i* of paragraph *a* of subsection 2 of the said section 131 for the purposes of this Act, the percentage referred to therein shall be read as "7 per cent".

.

Idem

(4) In the application of clause A of subparagraph *i* of paragraph *a* and clause C of subparagraph *ii* of paragraph *b* of subsection 6 of the said section 131, for the purposes of this Act, the multiplication factor referred to therein shall be read as "14 $\frac{2}{7}$ times".

Idem

(5) In the application of paragraph *d* of subsection 6 of the said section 131 for the purposes of this Act, subparagraph *i* thereof shall be read without reference to clause C thereof, and the percentage referred to in clauses A and B of the said subparagraph shall be read as "14 per cent".

s. 126 (1) (c),
re-enacted

- 13.—**(1) Clause *c* of subsection 1 of section 126 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 58,

SECTION 12. This section re-enacts subsections 2, 4 and 5 of section 41 of the Act, relating to the taxation of Mutual Fund Corporations, in order to reflect the increase in the tax rate made by section 7 of this Bill.

SECTION 13.—Subsection 1 of this section re-enacts clause *c* of subsection 1 of section 126 of the Act to provide that reserves claimed under Part II of the Act in respect of dispositions of capital and resource property shall be included in paid-up capital for the purpose of calculating the tax on paid-up capital.

Subsection 2 of this section adds a new subsection 4 to the said section 126 to set out the rules for the calculation of the paid-up capital of corporations that are members of a partnership. The paid-up capital will be allocated on the basis of the distribution of the profits and the paid-up capital of an individual who is a shareholder of a corporate general partner of a limited partnership will be added to the paid-up capital of that corporation.

section 9, is repealed and the following substituted therefor:

- (c) all its reserves, whether created from income or otherwise, except any reserve the creation of which is allowed as a deduction under the provisions of Part II, except that the reserves the creation of which is allowed as a deduction under the following provisions of Part II shall be included in paid-up capital,
 - (i) paragraph *n* of subsection 1 of section 20 of the *Income Tax Act* (Canada) as that para-^{R.S.C. 1952, c. 148}graph applies by virtue of subsections 1 and 8 of section 14 of this Act,
 - (ii) subparagraph iii of paragraph *a* of subsection 1 of section 40 of the *Income Tax Act* (Canada) as that subparagraph applies by virtue of subsection 1 of section 15 of this Act, and
 - (iii) subsection 1 of section 18.
- (2) The said section 126, as amended by the Statutes of Ontario, 1973, chapter 42, section 11, 1977, chapter 16, section 3, 1977, chapter 58, sections 9 and 26 and 1978, chapter 14, section 12, is further amended by adding thereto the following subsection:
 - (4) For the purpose of subsection 1 the paid-up capital of the corporate partners of a partnership shall, with respect to their interests in the partnership, be determined in accordance with the following rules:
 - (a) determine the paid-up capital of the partnership as if it were a corporation;
 - (b) allocate the paid-up capital of the partnership as determined under clause *a* to each partner thereof in the same proportion as the share of the profits to which the partner is entitled under the partnership agreement;
 - (c) where a general partner of a limited partnership is a corporation, and where,
 - (i) an individual who is a limited partner thereof or a member of his family owns any share of the capital stock of the general partner, or

- (ii) a trust, the beneficiaries of which are members of the family of an individual referred to in subclause i, is a limited partner thereof,

the amount allocated to such limited partner under clause *b* shall be added to the paid-up capital of the general partner otherwise allocated to it under clause *b*; and

- (*d*) where two or more general partners of a limited partnership are corporations and where a limited partner referred to in clause *c* owns any share of the capital stock of two or more of such general partners the amount allocated to such limited partner under clause *b* shall be apportioned and added to the paid-up capital of each general partner of which the limited partner owns any share of the capital stock in the same proportion that the share of the profits of the limited partnership of that general partner is to the total share of the profits of the limited partnership of all of the general partners of which the limited partner owns any share of the capital stock.

s. 127 (1)
(c) (ii),
re-enacted

- 14.—**(1) Subclause ii of clause *c* of subsection 1 of section 127, as re-enacted by the Statutes of Ontario, 1977, chapter 58, section 10, is repealed and the following substituted therefor:

- (ii) cash on deposit with any corporation doing the business of a savings bank and amounts due by a corporation with its head office outside Canada to a related corporation that is taxable under this Part are deemed not to be loans and advances to other corporations.

s. 127 (2) (*d*),
re-enacted

- (2) Clause *d* of subsection 2 of the said section 127, as re-enacted by the Statutes of Ontario, 1977, chapter 58, section 10, is repealed and the following substituted therefor:

- (*d*) by which the value of an asset of a corporation has been written down and deducted from its income or undivided profits where such amount is deductible under the provisions of Part II except,

- (i) paragraph *n* of subsection 1 of section 20 of the *Income Tax Act* (Canada) as that para-

SECTION 14. Subsection 1 of this section re-enacts subclause ii of clause *c* of subsection 1 of section 127 of the Act to exclude from the investment allowance loans by a corporation to non-resident related corporations. Previously only loans to a non-resident parent corporation were excluded.

Subsection 2 of this section re-enacts clause *d* of subsection 2 of the said section 127 so that the reserves with respect to the dispositions of capital property and resource property will be included in "cost of investments" and "total assets" for investment allowance purposes. This amendment is complementary to the amendment to clause *c* of subsection 1 of section 126 made by subsection 1 of section 13 of the Bill.

SECTION 15. This section adds a new subsection 3 to section 128 of the Act to provide the rules for calculating the paid-up capital employed in Canada of non-resident corporations that are members of partnerships. This amendment is complementary to the amendment to section 126 of the Act made by subsection 2 of section 13 of the Bill.

SECTION 16. This section re-enacts sections 131 and 132 of the Act to increase the rate of tax on paid-up capital for banks to $\frac{4}{5}$ ths of 1 per cent and to increase to $\frac{4}{5}$ ths of 1 per cent the deduction for paid-up capital used by banks outside Ontario. The rate for loan and trust companies remains at $\frac{3}{5}$ ths of 1 per cent and for other corporations at $\frac{3}{10}$ ths of 1 per cent, and sections 131 and 132 have been restructured to accomplish this.

graph applies by virtue of subsections 1 and 8 of section 14 of this Act,

- (ii) subparagraph iii of paragraph *a* of subsection 1 of section 40 of the *Income Tax Act* ^{R.S.C. 1952, c. 148} (Canada) as that subparagraph applies by virtue of subsection 1 of section 15 of this Act, and

- (iii) subsection 1 of section 18.

- 15.** Section 128 of the said Act, as amended by the Statutes of ^{s. 128, amended} Ontario, 1973, chapter 42, section 13 and 1977, chapter 58, section 11, is further amended by adding thereto the following subsection:

(3) For the purpose of subsection 1, the paid-up capital of the corporate partners of a partnership shall, with respect to their interests in the partnership, be determined in accordance with the rules provided in clauses *a*, *b*, *c* and *d* of subsection 4 of section 126. ^{Determination of paid-up capital}

- 16.** Section 131, as re-enacted by the Statutes of Ontario, 1977, ^{ss. 131, 132, re-enacted} chapter 16, section 4 and amended by 1977, chapter 58, section 26 and 1978, chapter 14, section 14, and section 132, as re-enacted by the Statutes of Ontario, 1977, chapter 16, section 4 and amended by 1977, chapter 58, section 26 and 1978, chapter 14, section 15, of the said Act are repealed and the following substituted therefor:

131.—(1) Except as provided in subsections 2 and 3, ^{Rate of capital tax} the tax payable under this Part by a corporation for a taxation year calculated upon its taxable paid-up capital or taxable paid-up capital employed in Canada, as the case may be, in this subsection referred to as the “amount taxable”, is three-tenths of 1 per cent of the amount taxable.

(2) The tax payable under this Part by a bank for a ^{Rate of capital tax on banks} taxation year calculated upon its taxable paid-up capital, in this subsection referred to as the “amount taxable” is four-fifths of 1 per cent of the amount taxable.

(3) The tax payable under this Part by a corporation registered under *The Loan and Trust Corporations Act* for ^{Rate of tax on loan and trust corporations} a taxation year calculated upon its taxable paid-up capital, in this subsection referred to as the “amount taxable” is three-fifths of 1 per cent of the amount taxable.

132.—(1) Except as provided in subsections 2 and 3, ^{Deduction from tax on paid-up capital} there may be deducted from the tax otherwise payable under

this Part by a corporation for a taxation year an amount equal to three-tenths of 1 per cent of that portion of the taxable paid-up capital or taxable paid-up capital employed in Canada, as the case may be, that is deemed to be used by the corporation in the taxation year in each jurisdiction outside Ontario determined under rules prescribed by the regulations.

Idem

(2) There may be deducted from the tax otherwise payable under this Part by a bank for a taxation year an amount equal to four-fifths of 1 per cent of that portion of its taxable paid-up capital that is deemed to be used by the bank in the taxation year in each jurisdiction outside Ontario determined under rules prescribed by the regulations.

Idem

R.S.O. 1970,
c. 254

(3) There may be deducted from the tax otherwise payable under this Part by a corporation registered under *The Loan and Trust Corporations Act* for a taxation year an amount equal to three-fifths of 1 per cent of that portion of its taxable paid-up capital that is deemed to be used by the corporation registered under *The Loan and Trust Corporations Act* in the taxation year in each jurisdiction outside Ontario determined under rules prescribed by the regulations.

s. 133a,
re-enacted

- 17.** Section 133a of the said Act, as enacted by the Statutes of Ontario, 1977, chapter 16, section 5 and amended by the Statutes of Ontario, 1977, chapter 58, section 26, is repealed and the following substituted therefor:

Flat rate
tax

133a.—(1) Notwithstanding subsection 1 of section 131 and subsection 1 of section 132, and except as provided in subsections 1 and 2 of section 135, the tax payable by a corporation under this Part for a taxation year shall be,

(a) \$50, where its taxable paid-up capital or taxable paid-up capital employed in Canada, as the case may be, does not exceed \$100,000;

(b) the lesser of,

(i) the tax that would otherwise be payable under this Part if subsection 1 of section 131 and subsection 1 of section 132 were applicable, and

(ii) \$100,

SECTION 17. This section re-enacts section 133a of the Act to broaden the applicability of the flat rate of tax on taxable paid-up capital. Where the taxable paid-up capital of a corporation does not exceed \$100,000 the flat rate will be \$50. Where the taxable paid-up capital of a corporation exceeds \$100,000 but does not exceed \$200,000 the flat rate of tax will be \$100; where the taxable paid-up capital exceeds \$200,000 but does not exceed \$1,000,000 the flat rate of tax will be \$100 if the corporation does not have income or has a loss for the year. Finally, there will be a notch provision to reduce the amount of paid-up capital tax payable where the taxable paid-up capital exceeds \$200,000 but does not exceed \$300,000 and where the flat rate is not applicable.

where its taxable paid-up capital or taxable paid-up capital employed in Canada, as the case may be, exceeds \$100,000 but does not exceed \$200,000; or

(c) the lesser of,

(i) the tax that would otherwise be payable under this Part if subsection 1 of section 131 and subsection 1 of section 132 were applicable, and

(ii) \$100,

where its taxable paid-up capital or taxable paid-up capital employed in Canada, as the case may be, exceeds \$200,000 but does not exceed \$1,000,000 and the corporation has no taxable income for the year or has a loss for the year as determined in accordance with subsection 3.

(2) Notwithstanding subsection 1 of section 131 and subsection 1 of section 132, and except as provided in subsections 1 and 2 of section 135, where the taxable paid-up capital or the taxable paid-up capital employed in Canada, as the case may be, of a corporation for a taxation year exceeds \$200,000, but does not exceed \$300,000, and where clause *c* of subsection 1 does not apply, the tax payable under this Part for a taxation year by the corporation shall be the lesser of, Notch provision

(a) the tax that would otherwise be payable under this Part if subsection 1 of section 131 and subsection 1 of section 132 were applicable; and

(b) the amount by which the tax that would otherwise be payable under this Part if no deduction were made under subsection 1 of section 132 exceeds $\frac{1}{2}$ of 1 per cent of the amount by which,

(i) \$300,000

exceeds

(ii) its taxable paid-up capital or taxable paid-up capital employed in Canada, as the case may be.

(3) For the purposes of clause *c* of subsection 1, a corporation has no taxable income for a taxation year or a loss for a taxation year if it has no income for the year or has Interpretation

a loss for the year after making the deductions permitted by Part II other than the deductions under,

(a) clauses *a* and *d* of subsection 7 of section 14;

R.S.C. 1952,
c. 148

(b) paragraphs *b* and *gg* of subsection 1 of section 20 of the *Income Tax Act* (Canada) as made applicable by section 14;

(c) subsection 16 of section 20 of the *Income Tax Act* (Canada) as made applicable by section 14;

(d) section 19; and

(e) paragraphs *a*, *b* and *b.1* of subsection 1 of section 110 of the *Income Tax Act* (Canada) and sections 111, 112 and 113 of the *Income Tax Act* (Canada), all as made applicable by section 29.

s. 148*a*,
enacted

18. The said Act is further amended by adding thereto the following section:

Entertain-
ment
corporations

148*a*.—(1) This section applies where a corporation to which subsection 2 or 3 of section 2 is applicable is deemed by subsection 8 of section 7 to have maintained a permanent establishment in Ontario by virtue of it having produced or presented any form of entertainment by means of a performance in a public place in Ontario.

Withholding

(2) Any person that is about to make a payment to a corporation referred to in subsection 1 as consideration for the performance shall, notwithstanding any agreement or law to the contrary, deduct or withhold an amount equal to 5 per cent thereof and in the prescribed time and manner remit the amount deducted or withheld to the Treasurer of Ontario on behalf of the corporation on account of the taxes payable by the corporation under this Act.

Idem

(3) Where an amount has been paid to an agent or other person for or on behalf of a corporation referred to in subsection 1 as consideration for the performance without an amount having been deducted or withheld as required under subsection 2, the agent or other person shall, notwithstanding any agreement or law to the contrary, deduct or withhold from such payment an amount equal to 5 per cent thereof and in the prescribed time and manner remit the amount deducted or withheld to the Treasurer of Ontario on behalf of the corporation on account of the taxes payable by the corporation under this Act.

SECTION 18. This section adds a new section 148*a* to the Act to provide for the collection of tax payable by transient corporations which provide entertainment.

Persons about to make a payment for a performance will be required to deduct and remit to the Treasurer of Ontario 5 per cent thereof (subsections 2 and 3); penalty and interest will be payable for failure to comply (subsections 4 and 9); the person required to withhold and remit may be assessed therefor (subsection 4); and the sections of the Act relating to appeals and enforcement will apply to such an assessment (subsection 5). A person on behalf of whom an amount has been remitted may apply for a refund where no tax is payable (subsection 8). Finally, there are provisions to protect persons who withhold and remit amounts in compliance with this section (subsections 6 and 7).

(4) Any person who,

Liability
for tax

- (a) has failed to deduct or withhold any amount as required by this section with respect to a corporation referred to in subsection 1; or
- (b) having deducted or withheld an amount as required by this section, has failed to remit such amount to the Treasurer of Ontario as required by this section,

is liable when assessed therefor to pay on account of the taxes payable by the corporation under this Act the whole of the amount that should have been deducted or withheld or remitted, as the case may be, together with interest thereon, from the date that the amount was required to be remitted to the date of payment at the rate prescribed for the purposes of subsection 1 of section 149, and such person is entitled to deduct or withhold from any amount payable by him to the corporation or otherwise recover from the corporation any amount paid by him on account of tax under this section on behalf thereof.

(5) Divisions C, D, E and F of this Part, and Part VI except section 167, apply *mutatis mutandis* to an assessment under this section. Application of this Part and Part VI

(6) No action lies against any person for deducting or withholding any sum of money in compliance or intended compliance with this section. No action for compliance

(7) The receipt of the Minister for an amount remitted by a person as required by this section is a good and sufficient discharge of the liability of such person to the corporation on behalf of which the amount was remitted to the extent of the amount referred to in the receipt. Minister's receipt

(8) Where a person on whose behalf an amount has been remitted to the Treasurer of Ontario after having been deducted or withheld under this section was not liable to pay any tax under this Act, the Minister shall, upon application in writing made within two years from the end of the calendar year in which the amount was remitted, pay to him the amount so remitted, unless he is otherwise liable or about to become liable to make a payment under this Act, in which case the Minister may apply the amount otherwise payable under this subsection to that payment and notify him of that fact. Application for refund

(9) Every person who has failed to remit an amount deducted or withheld as required by this section is liable Penalty

to pay, in addition to that amount, a penalty of 10 per cent of that amount or \$10, whichever is the greater.

s. 149 (5),
re-enacted

- 19.** Subsection 5 of section 149 of the said Act, as re-enacted by the Statutes of Ontario, 1978, chapter 14, section 19, is repealed and the following substituted therefor:

Interest on
unpaid part or
instalment of
tax

(5) For the purpose of calculating interest under subsection 2, where a corporation is required to pay a part or instalment of tax for a taxation year pursuant to subsection 3 of section 148, the corporation shall be deemed to have been liable to pay the part or instalment determined,

(a) on the basis of the tax payable for the taxation year;

(b) under sub-subclause B of subclause i of clause *a* of subsection 3 of section 148; or

(c) subclause ii of clause *a* of subsection 3 of section 148,

whichever method gives the least amount required to be paid.

s. 150 (4) (a),
amended

- 20.** Clause *a* of subsection 4 of section 150 of the said Act, as amended by the Statutes of Ontario, 1977, chapter 58, sections 18 and 26, is further amended by adding thereto the following subclause:

(iva) has filed with the Minister of National Revenue for Canada a waiver within the time and in the form required by subsection 4 of section 152 of the *Income Tax Act* (Canada), or

R.S.C. 1952,
c. 148

s. 156,
re-enacted

- 21.** Section 156 of the said Act is repealed and the following substituted therefor:

Reply to
notice of
appeal

156. The Minister shall with all due dispatch serve on the corporation appealing and file in the Court a reply to the notice of appeal admitting or denying the facts alleged and containing a statement of such further allegations of fact and all statutory provisions and reasons as he intends to rely on, and where the Minister has failed to serve the reply within 180 days from the date of service upon him of the notice of appeal, the corporation may, upon twenty-one days notice to the Minister, apply to a judge of the Supreme Court for an order requiring the reply to be served within such time as the judge shall order, and the judge may, if he

SECTION 19. This section re-enacts subsection 5 of section 149 of the Act to make it clear that, for the purpose of calculating interest on deficiencies in instalment payments, the alternative base for determining the amount of instalments required will be the tax payable for the year rather than the corporation's estimate for the year.

SECTION 20. This section adds a new subclause *iva* to clause *a* of subsection 4 of section 150 of the Act to provide that the six year time limit for reassessments does not apply where the corporation has filed a waiver under the *Income Tax Act* (Canada) for the same year.

SECTION 21. This section re-enacts section 156 of the Act to specify the time within which the reply of the Minister is to be served, and provides a procedure where the reply is not served as required.

considers it proper in the circumstances, also order that, upon failure by the Minister to serve the reply in the time specified in the order, the assessment or part thereof, as the case may be, with respect to which the appeal is taken shall be vacated and any tax paid pursuant to such assessment or part thereof, as the case may be, shall be repaid to the corporation, but nothing in this section revives an appeal that is void or affects an assessment that has become valid and binding under subsection 7 of section 150.

22.—(1) Section 1 and subsection 2 of section 9 shall be deemed to have come into force on the 1st day of January, 1978 and apply to corporations in respect of all taxation years ending after 1977. Commence-
ment and
Application

(2) Subsection 1 of section 2, sections 7 and 8, subsection 1 of section 9, sections 10 and 11, subsections 2 and 4 of section 41 of the said Act, as re-enacted by section 12 of this Act, and sections 16 and 17 shall be deemed to have come into force on the 11th day of April, 1979 and apply to corporations in respect of all taxation years ending after the 10th day of April, 1979, except that with respect to the taxation year ending after the 10th day of April, 1979 and that includes that day, the following rules apply: Idem

- (a) determine the amount of tax payable under Parts II and III of the said Act as those Parts stood on the 10th day of April, 1979 on the assumption that those Parts as they so stood were applicable to that taxation year;
- (b) determine the proportion of the amount determined under clause *a* that the number of days of that taxation year prior to the 11th day of April, 1979 bears to the total number of days of that taxation year;
- (c) determine the amount of tax payable under Parts II and III of the said Act, as amended by subsection 1 of section 2, sections 7 and 8, subsection 1 of section 9 and sections 10, 11, 12, 16 and 17 of this Act, on the assumption that those Parts as so amended were applicable for that taxation year;
- (d) determine the proportion of the amount determined under clause *c* that the number of days of that taxation year that follow the 10th day of April, 1979 bears to the total number of days of that taxation year;

- (e) determine the aggregate of the amounts determined under clauses *b* and *d* in respect of the corporation,

and the aggregate determined under clause *e* is the amount payable by the corporation under Parts II and III of the said Act, as amended by subsection 1 of section 2, sections 7 and 8, subsection 1 of section 9, and sections 10, 11, 12, 16 and 17 of this Act, for its taxation year that ends after the 10th day of April, 1979 and that includes that day.

Idem

- (3) Subsection 2 of section 2, section 3, subsection 2 of section 4, and sections 5 and 6 shall come into force on a day to be named by proclamation of the Lieutenant Governor.

Idem

- (4) Subsection 1 of section 4 shall be deemed to have come into force on the 8th day of December, 1977 and applies to corporations in respect of all taxation years ending after the 7th day of December, 1977.

Idem

- (5) Subsection 5 of section 41 of the said Act, as re-enacted by section 12 of this Act, shall be deemed to have come into force on the 11th day of April, 1979 and applies to corporations in respect of all taxation years ending after the 10th day of April, 1979, except that for the purpose of a computation under paragraph *d* of subsection 6 of section 131 of the *Income Tax Act* (Canada) as made applicable by the said subsection 5 that is made at any time after the 10th day of April, 1979, the percentage referred to in the said subsection 5 shall, with respect to a taxation year,

R.S.C. 1952,
c. 148

- (a) that ends after the 7th day of March, 1978 and before the 11th day of April, 1979, be deemed to be "13 per cent"; and

- (b) that ends before the 8th day of March, 1978, be deemed to be "12 per cent".

Idem

- (6) Sections 13, 14 and 15 shall be deemed to have come into force on the 11th day of April, 1979 and apply to corporations in respect of all taxation years ending after the 10th day of April, 1979.

Idem

- (7) Section 18 shall come into force on the day this Act receives Royal Assent and applies to performances given on or after that date.

- (8) Section 19 shall be deemed to have come into force on ^{Idem} the 1st day of July, 1978 and applies to corporations in respect of all taxation years commencing on or after that date.
 - (9) Section 20 shall come into force on the day this Act ^{Idem} receives Royal Assent and applies to waivers filed on or after that date.
 - (10) Section 21 shall be deemed to have come into force on ^{Idem} the 11th day of April, 1979 and applies to appeals instituted on or after that date.
- 23.** The short title of this Act is *The Corporations Tax Amendment Act, 1979*. ^{Short title}

An Act to amend
The Corporations Tax Act, 1972

1st Reading

April 10th, 1979

2nd Reading

3rd Reading

THE HON. L. MAECK
Minister of Revenue

(Government Bill)

3RD SESSION, 31ST LEGISLATURE, ONTARIO
28 ELIZABETH II, 1979

Legislation
11

**An Act to amend
The Corporations Tax Act, 1972**

THE HON. L. MAECK
Minister of Revenue

(Reprinted as amended by the Committee of the Whole House)



EXPLANATORY NOTES

SECTION 1. This section amends subsection 7 of section 7 of the Act to add a reference therein to "territory" so that the definition of permanent establishment will be extended to include land owned in a territory of Canada.

SECTION 2. Subsection 1 amends subsection 6 of section 14 of the Act and is complementary to the amendment made by section 7 of the Bill.

Subsection 2 repeals subsection 11 of section 14 of the Act relating to non-capital loss on the disposition of the shares of a Venture Investment Corporation. This subsection together with section 3, subsection 2 of section 4, section 5 and section 6 of the Bill repeal all of the provisions in the Act relating to Venture Investment Corporations. These amendments are made in conjunction with the program to be introduced by the Treasurer of Ontario with respect to Small Business Development Corporations.

SECTION 3. This section repeals subsection 5 of section 15 of the Act relating to capital loss on the disposition of shares of a Venture Investment Corporation, and this amendment is made in conjunction with the program with respect to Small Business Development Corporations.

SECTION 4. Subsection 1 of this section re-enacts clause *b* of subsection 3 of section 16 of the Act to include in a corporation's income the reserve, deducted in the immediately preceding year under section 18 of the Act, for proceeds not received on the sale of property and services the cost of which was a Canadian Exploration and Development expense.

Subsection 2 of this section repeals subsections 4, 5 and 6 of section 16 of the Act relating to the disposition of shares of a Venture Investment Corporation, and this amendment is made in conjunction with the program to be introduced by the Treasurer of Ontario with respect to Small Business Development Corporations.

An Act to amend The Corporations Tax Act, 1972

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 7 of section 7 of *The Corporations Tax Act, 1972*, <sup>s. 7 (7),
re-enacted</sup> being chapter 143, is repealed and the following substituted therefor:

(7) Where a corporation, otherwise having a permanent ^{Idem} establishment in Canada, owns land in a province or territory of Canada, such land is a permanent establishment.

- 2.—(1) Subsection 6 of section 14 of the said Act, as re-enacted <sup>s. 14 (6),
amended</sup> by the Statutes of Ontario, 1977, chapter 58, section 8 and amended by 1978, chapter 21, section 1, is further amended by striking out “5/13ths” in the amendment of 1978 and inserting in lieu thereof “5/14ths”.

- (2) Subsection 11 of the said section 14 is repealed. <sup>s. 14 (11),
repealed</sup>

3. Subsection 5 of section 15 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 58, section 8, is repealed. <sup>s. 15 (5),
repealed</sup>

- 4.—(1) Clause *b* of subsection 3 of section 16 of the said Act, as re-enacted <sup>s. 16 (3) (b),
re-enacted</sup> by the Statutes of Ontario, 1977, chapter 58, section 8, is repealed and the following substituted therefor:

(b) there shall be included in computing a corporation's <sup>Amount
deducted
under s. 18 in
preceding year</sup> income for a taxation year any amount that has been deducted under section 18 in computing the corporation's income for the immediately preceding taxation year.

- (2) Subsections 4, 5 and 6 of the said section 16 are repealed. <sup>s. 16 (4, 5, 6),
repealed</sup>

s. 25 (5),
repealed

5. Subsection 5 of section 25 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 58, section 8, is repealed.

s. 31,
repealed

6. Section 31 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 58, section 8, is repealed.

s. 33,
amended

7. Section 33 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 58, section 8 and amended by 1978, chapter 21, section 2, is further amended by striking out "13 per cent" in the amendment of 1978 and inserting in lieu thereof "14 per cent".

s. 34,
amended

8. Section 34 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 58, section 8 and amended by 1978, chapter 21, section 3, is further amended by striking out "13 per cent" in the amendment of 1978 and inserting in lieu thereof "14 per cent".

s. 35 (1) (e),
amended

- 9.—(1) Clause *e* of subsection 1 of section 35 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 58, section 8 and amended by 1978, chapter 21, section 4, is further amended by striking out "13 per cent" in the amendment of 1978 and inserting in lieu thereof "14 per cent".

s. 35 (1) (f) (i),
re-enacted

- (2) Subclause *i* of clause *f* of subsection 1 of the said section 35 is repealed and the following substituted therefor:

- (i) that portion of the income or profits tax paid for the taxation year by the corporation to the jurisdiction outside Canada in respect of the foreign investment income referred to in clause *e*, that was not deducted, by virtue of subsection 12 of section 20 of the *Income Tax Act* (Canada) for the purposes of that Act or for the purposes of this Act by virtue of that subsection as made applicable by section 14 of this Act, in computing the corporation's income for the year, and

R.S.C. 1952,
c. 148

s. 36 (1),
amended

- 10.—(1) Subsection 1 of section 36 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 58, section 8, is amended by striking out "3 per cent" in the fifth line and inserting in lieu thereof "4 per cent".

s. 36 (5),
re-enacted

- (2) Subsection 5 of the said section 36 is repealed and the following substituted therefor:

SECTIONS 5, 6. These sections repeal subsection 5 of section 25 (transfer of VIC shares on amalgamation) and section 31 of the Act (purchase of VIC shares), respectively, relating to Venture Investment Corporations, and these amendments are made in conjunction with the program to be introduced by the Treasurer of Ontario with respect to Small Business Development Corporations.

SECTION 7. This section amends section 33 of the Act to increase the rate of tax on income under the Act to 14 per cent. The existing rate is 13 per cent. This new rate will come into force on April 11, 1979 and will be pro-rated for taxation years that commence before that date and end on or after that date.

SECTION 8. This section amends section 34 of the Act to increase the rate used for the allocation of the tax on income earned outside Ontario. This amendment is complementary to the amendment made by section 7 of the Bill.

SECTION 9. Subsection 1 of this section amends clause *e* of subsection 1 of section 35 of the Act to increase the amount of foreign tax credit allowed. This adjustment to the foreign tax credit is required as a result of the increase in the tax rate provided in the amendment made by section 7 of the Bill.

Subsection 2 of this section re-enacts subclause *i* of clause *f* of subsection 1 of section 35 of the Act to prevent the foreign tax deduction being claimed with respect to foreign tax on non-business income for which a deduction is claimed by a corporation under subsection 12 of section 20 of the *Income Tax Act* (Canada). This amendment will prevent a double deduction with respect to the same foreign tax and parallels the corresponding amendment to the *Income Tax Act* (Canada).

SECTION 10. This section amends section 36 of the Act which provides for the small business deduction.

Subsection 1 of this section amends subsection 1 of the said section 36 to increase the deduction to 4 per cent (previously was 3 per cent) so that the effective rate on small business income will remain at 10 per cent. This amendment is complementary to the amendment made by section 7 of this Bill.

Subsection 2 of this section amends subsection 5 of the said section 36 to include a reference to the new section 36*a* of the Act being enacted by section 11 of the Bill.

SECTION 11. This section adds a new section 36*a* to the Act to provide a deduction from the tax otherwise payable of 1 per cent of the Ontario portion of "eligible Canadian profits" from manufacturing and processing, mining, farming, logging and fishing (to be defined by regulation) so that the effective rate of tax on such profits will remain at 13 per cent.

(5) In this section, "tax otherwise payable under this Part" means the tax for the taxation year otherwise payable by the corporation under this Part after making any deduction applicable under sections 34 and 35, but before making any deduction under this section or section 36a. Interpretation

11. The said Act is amended by adding thereto the following section: s. 36a, enacted

36a.—(1) There may be deducted from the tax otherwise payable under this Part for a taxation year by a corporation an amount equal to 1 per cent of that proportion of the amount determined under subsection 2 that, Tax credit for eligible profits

- (a) that portion of its taxable income or taxable income earned in Canada, as the case may be, for the year remaining after deducting therefrom that portion thereof which is earned in the taxation year in jurisdictions other than Ontario as determined for the purpose of section 34,

is of

- (b) the aggregate of the portions of its taxable income or taxable income earned in Canada, as the case may be, for the taxation year which were earned in the provinces or territories of Canada as determined for the purpose of section 34.

(2) For the purpose of subsection 1, the amount determined under this subsection is the lesser of, Idem

- (a) the amount, if any, by which the corporation's eligible Canadian profits for the year exceeds the least of the amounts determined under paragraphs *a*, *b*, *c* and *d* of subsection 1 of section 125 of the *Income Tax Act* (Canada) in respect of the corporation for the year; and R.S.C. 1952, c. 148
- (b) the amount, if any, by which the corporation's taxable income for the year exceeds the aggregate of,
 - (i) the least of the amounts determined under paragraphs *a*, *b*, *c* and *d* of subsection 1 of section 125 of the *Income Tax Act* (Canada) in respect of the corporation for the year,
 - (ii) the amount, if any, of that portion of the corporation's taxable income for the year

which is earned in jurisdictions outside Canada as determined for the purpose of section 34, and

- (iii) the amount, if any, by which the aggregate of the corporation's Canadian investment income for the year and its foreign investment income for the year, as defined in subsection 4 of section 129 of the *Income Tax Act* (Canada), exceeds the amount, if any, deducted under paragraph *b* of subsection 1 of section 111 of that Act as made applicable by section 29, from the corporation's income for the year.

Interpre-
tation
eligible
Canadian
profits

(3) For the purposes of subsection 2, "eligible Canadian profits" of a corporation for a taxation year means such portion of the aggregate of all amounts each of which is the income of the corporation for the year from manufacturing and processing, mining, farming, logging or fishing carried on in Canada as is determined under rules prescribed for that purpose by the regulations.

s. 41 (2, 4, 5),
re-enacted

- 12.** Subsections 2, 4 and 5 of section 41 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 58, section 8 and amended by 1978, chapter 21, section 5, are repealed and the following substituted therefor:

Idem

(2) In the application of subparagraph *i* of paragraph *a* of subsection 2 of the said section 131 for the purposes of this Act, the percentage referred to therein shall be read as "7 per cent".

.

Idem

(4) In the application of clause A of subparagraph *i* of paragraph *a* and clause C of subparagraph *ii* of paragraph *b* of subsection 6 of the said section 131, for the purposes of this Act, the multiplication factor referred to therein shall be read as "14 2/7 times".

Idem

(5) In the application of paragraph *d* of subsection 6 of the said section 131 for the purposes of this Act, subparagraph *i* thereof shall be read without reference to clause C thereof, and the percentage referred to in clauses A and B of the said subparagraph shall be read as "14 per cent".

s. 126 (1) (c),
re-enacted

- 13.—**(1) Clause *c* of subsection 1 of section 126 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 58,

SECTION 12. This section re-enacts subsections 2, 4 and 5 of section 41 of the Act, relating to the taxation of Mutual Fund Corporations, in order to reflect the increase in the tax rate made by section 7 of this Bill.

SECTION 13.—Subsection 1 of this section re-enacts clause *c* of subsection 1 of section 126 of the Act to provide that reserves claimed under Part II of the Act in respect of dispositions of capital and resource property shall be included in paid-up capital for the purpose of calculating the tax on paid-up capital.

Subsection 2 of this section adds a new subsection 4 to the said section 126 to set out the rules for the calculation of the paid-up capital of corporations that are members of a partnership. The paid-up capital will be allocated on the basis of the distribution of the profits and the paid-up capital of an individual who is a shareholder of a corporate general partner of a limited partnership will be added to the paid-up capital of that corporation.

section 9, is repealed and the following substituted therefor:

- (c) all its reserves, whether created from income or otherwise, except any reserve the creation of which is allowed as a deduction under the provisions of Part II, except that the reserves the creation of which is allowed as a deduction under the following provisions of Part II shall be included in paid-up capital,

- (i) paragraph *n* of subsection 1 of section 20 of the *Income Tax Act* (Canada) as that paragraph applies by virtue of subsections 1 and 8 of section 14 of this Act, R.S.C. 1952,
c. 148

- (ii) subparagraph iii of paragraph *a* of subsection 1 of section 40 of the *Income Tax Act* (Canada) as that subparagraph applies by virtue of subsection 1 of section 15 of this Act, and

- (iii) subsection 1 of section 18.

- (2) The said section 126, as amended by the Statutes of Ontario, 1973, chapter 42, section 11, 1977, chapter 16, section 3, 1977, chapter 58, sections 9 and 26 and 1978, chapter 14, section 12, is further amended by adding thereto the following subsection: s. 126,
amended

- (4) For the purpose of subsection 1 the paid-up capital of the corporate partners of a partnership shall, with respect to their interests in the partnership, be determined in accordance with the following rules: Interpre-
tation

- (a) determine the paid-up capital of the partnership as if it were a corporation;
 - (b) allocate the paid-up capital of the partnership as determined under clause *a* to each partner thereof in the same proportion as the share of the profits to which the partner is entitled under the partnership agreement;
 - (c) where a general partner of a limited partnership is a corporation, and where,

- (i) an individual who is a limited partner thereof or a member of his family is a shareholder of or is related to the general partner, or

- (ii) a trust, the beneficiaries of which are related to any person mentioned in subclause i, is a limited partner thereof,

the amount allocated to such limited partner under clause *b* shall be added to the paid-up capital of the general partner otherwise allocated to it under clause *b*; and

- (d) where two or more general partners of a limited partnership are corporations and where a limited partner referred to in clause *c* is a shareholder of or is related to two or more of such general partners the amount allocated to such limited partner under clause *b* shall be apportioned and added to the paid-up capital of each general partner of which the limited partner is a shareholder or to which he is related in the same proportion that the share of the profits of the limited partnership of that general partner is to the total share of the profits of the limited partnership of all of the general partners of which the limited partner is a shareholder or to which he is related.

s. 127 (1)
(c) (ii),
re-enacted

- 14.—(1) Subclause ii of clause *c* of subsection 1 of section 127, as re-enacted by the Statutes of Ontario, 1977, chapter 58, section 10, is repealed and the following substituted therefor:

- (ii) cash on deposit with any corporation doing the business of a savings bank and amounts due by a corporation with its head office outside Canada to a related corporation that is taxable under this Part are deemed not to be loans and advances to other corporations.

s. 127 (2) (d),
re-enacted

- (2) Clause *d* of subsection 2 of the said section 127, as re-enacted by the Statutes of Ontario, 1977, chapter 58, section 10, is repealed and the following substituted therefor:

- (d) by which the value of an asset of a corporation has been written down and deducted from its income or undivided profits where such amount is deductible under the provisions of Part II except,

- (i) paragraph *n* of subsection 1 of section 20 of the *Income Tax Act* (Canada) as that para-

SECTION 14. Subsection 1 of this section re-enacts subclause ii of clause *c* of subsection 1 of section 127 of the Act to exclude from the investment allowance loans by a corporation to non-resident related corporations. Previously only loans to a non-resident parent corporation were excluded.

Subsection 2 of this section re-enacts clause *d* of subsection 2 of the said section 127 so that the reserves with respect to the dispositions of capital property and resource property will be included in "cost of investments" and "total assets" for investment allowance purposes. This amendment is complementary to the amendment to clause *c* of subsection 1 of section 126 made by subsection 1 of section 13 of the Bill.

SECTION 15. This section adds a new subsection 3 to section 128 of the Act to provide the rules for calculating the paid-up capital employed in Canada of non-resident corporations that are members of partnerships. This amendment is complementary to the amendment to section 126 of the Act made by subsection 2 of section 13 of the Bill.

SECTION 16. This section re-enacts sections 131 and 132 of the Act to increase the rate of tax on paid-up capital for banks to $\frac{4}{5}$ ths of 1 per cent and to increase to $\frac{4}{5}$ ths of 1 per cent the deduction for paid-up capital used by banks outside Ontario. The rate for loan and trust companies remains at $\frac{3}{5}$ ths of 1 per cent and for other corporations at $\frac{3}{10}$ ths of 1 per cent, and sections 131 and 132 have been restructured to accomplish this.

graph applies by virtue of subsections 1 and 8 of section 14 of this Act,

- (ii) subparagraph iii of paragraph *a* of subsection 1 of section 40 of the *Income Tax Act* R.S.C. 1952, c. 148 (Canada) as that subparagraph applies by virtue of subsection 1 of section 15 of this Act, and

- (iii) subsection 1 of section 18.

- 15.** Section 128 of the said Act, as amended by the Statutes of s. 128, amended Ontario, 1973, chapter 42, section 13 and 1977, chapter 58, section 11, is further amended by adding thereto the following subsection:

(3) For the purpose of subsection 1, the paid-up capital of the corporate partners of a partnership shall, with respect to their interests in the partnership, be determined in accordance with the rules provided in clauses *a*, *b*, *c* and *d* of subsection 4 of section 126. Determination of paid-up capital

- 16.** Section 131, as re-enacted by the Statutes of Ontario, 1977, ss. 131, 132, re-enacted chapter 16, section 4 and amended by 1977, chapter 58, section 26 and 1978, chapter 14, section 14, and section 132, as re-enacted by the Statutes of Ontario, 1977, chapter 16, section 4 and amended by 1977, chapter 58, section 26 and 1978, chapter 14, section 15, of the said Act are repealed and the following substituted therefor:

131.—(1) Except as provided in subsections 2 and 3, Rate of capital tax the tax payable under this Part by a corporation for a taxation year calculated upon its taxable paid-up capital or taxable paid-up capital employed in Canada, as the case may be, in this subsection referred to as the “amount taxable”, is three-tenths of 1 per cent of the amount taxable.

(2) The tax payable under this Part by a bank for a Rate of capital tax on banks taxation year calculated upon its taxable paid-up capital, in this subsection referred to as the “amount taxable” is four-fifths of 1 per cent of the amount taxable.

(3) The tax payable under this Part by a corporation registered under *The Loan and Trust Corporations Act* for Rate of tax on loan and trust corporations a taxation year calculated upon its taxable paid-up capital, in this subsection referred to as the “amount taxable” is three-fifths of 1 per cent of the amount taxable.

132.—(1) Except as provided in subsections 2 and 3, Deduction from tax on paid-up capital there may be deducted from the tax otherwise payable under

this Part by a corporation for a taxation year an amount equal to three-tenths of 1 per cent of that portion of the taxable paid-up capital or taxable paid-up capital employed in Canada, as the case may be, that is deemed to be used by the corporation in the taxation year in each jurisdiction outside Ontario determined under rules prescribed by the regulations.

Idem

(2) There may be deducted from the tax otherwise payable under this Part by a bank for a taxation year an amount equal to four-fifths of 1 per cent of that portion of its taxable paid-up capital that is deemed to be used by the bank in the taxation year in each jurisdiction outside Ontario determined under rules prescribed by the regulations.

Idem

R.S.O. 1970,
c. 254

(3) There may be deducted from the tax otherwise payable under this Part by a corporation registered under *The Loan and Trust Corporations Act* for a taxation year an amount equal to three-fifths of 1 per cent of that portion of its taxable paid-up capital that is deemed to be used by the corporation registered under *The Loan and Trust Corporations Act* in the taxation year in each jurisdiction outside Ontario determined under rules prescribed by the regulations.

s. 133a,
re-enacted

17. Section 133a of the said Act, as enacted by the Statutes of Ontario, 1977, chapter 16, section 5 and amended by the Statutes of Ontario, 1977, chapter 58, section 26, is repealed and the following substituted therefor:

Flat rate
tax

133a.—(1) Notwithstanding subsection 1 of section 131 and subsection 1 of section 132, and except as provided in subsections 1 and 2 of section 135, the tax payable by a corporation under this Part for a taxation year shall be,

(a) \$50, where its taxable paid-up capital or taxable paid-up capital employed in Canada, as the case may be, does not exceed \$100,000;

(b) the lesser of,

(i) the tax that would otherwise be payable under this Part if subsection 1 of section 131 and subsection 1 of section 132 were applicable, and

(ii) \$100,

SECTION 17. This section re-enacts section 133*a* of the Act to broaden the applicability of the flat rate of tax on taxable paid-up capital. Where the taxable paid-up capital of a corporation does not exceed \$100,000 the flat rate will be \$50. Where the taxable paid-up capital of a corporation exceeds \$100,000 but does not exceed \$200,000 the flat rate of tax will be \$100; where the taxable paid-up capital exceeds \$200,000 but does not exceed \$1,000,000 the flat rate of tax will be \$100 if the corporation does not have income or has a loss for the year. Finally, there will be a notch provision to reduce the amount of paid-up capital tax payable where the taxable paid-up capital exceeds \$200,000 but does not exceed \$300,000 and where the flat rate is not applicable.

where its taxable paid-up capital or taxable paid-up capital employed in Canada, as the case may be, exceeds \$100,000 but does not exceed \$200,000; or

(c) the lesser of,

(i) the tax that would otherwise be payable under this Part if subsection 1 of section 131 and subsection 1 of section 132 were applicable, and

(ii) \$100,

where its taxable paid-up capital or taxable paid-up capital employed in Canada, as the case may be, exceeds \$200,000 but does not exceed \$1,000,000 and the corporation has no taxable income for the year or has a loss for the year as determined in accordance with subsection 3.

(2) Notwithstanding subsection 1 of section 131 and subsection 1 of section 132, and except as provided in subsections 1 and 2 of section 135, where the taxable paid-up capital or the taxable paid-up capital employed in Canada, as the case may be, of a corporation for a taxation year exceeds \$200,000, but does not exceed \$300,000, and where clause *c* of subsection 1 does not apply, the tax payable under this Part for a taxation year by the corporation shall be the lesser of, Notch provision

(a) the tax that would otherwise be payable under this Part if subsection 1 of section 131 and subsection 1 of section 132 were applicable; and

(b) the amount by which the tax that would otherwise be payable under this Part if no deduction were made under subsection 1 of section 132 exceeds $\frac{1}{2}$ of 1 per cent of the amount by which,

(i) \$300,000

exceeds

(ii) its taxable paid-up capital or taxable paid-up capital employed in Canada, as the case may be.

(3) For the purposes of clause *c* of subsection 1, a corporation has no taxable income for a taxation year or a loss for a taxation year if it has no income for the year or has Interpretation

a loss for the year after making the deductions permitted by Part II other than the deductions under,

- (a) clauses *a* and *d* of subsection 7 of section 14;
- (b) paragraphs *b* and *gg* of subsection 1 of section 20 of the *Income Tax Act* (Canada) as made applicable by section 14;
- (c) subsection 16 of section 20 of the *Income Tax Act* (Canada) as made applicable by section 14;
- (d) section 19; and
- (e) paragraphs *a*, *b* and *b.1* of subsection 1 of section 110 of the *Income Tax Act* (Canada) and sections 111, 112 and 113 of the *Income Tax Act* (Canada), all as made applicable by section 29.

R.S.C. 1952,
c. 148

s. 148*a*,
enacted

18. The said Act is further amended by adding thereto the following section:

Entertain-
ment
corporations

148*a*.—(1) This section applies where a corporation to which subsection 2 or 3 of section 2 is applicable is deemed by subsection 8 of section 7 to have maintained a permanent establishment in Ontario by virtue of it having produced or presented any form of entertainment by means of a performance in a public place in Ontario.

Withholding

(2) Any person that is about to make a payment to a corporation referred to in subsection 1 as consideration for the performance shall, notwithstanding any agreement or law to the contrary, deduct or withhold an amount equal to 5 per cent thereof and in the prescribed time and manner remit the amount deducted or withheld to the Treasurer of Ontario on behalf of the corporation on account of the taxes payable by the corporation under this Act.

Idem

(3) Where an amount has been paid to an agent or other person for or on behalf of a corporation referred to in subsection 1 as consideration for the performance without an amount having been deducted or withheld as required under subsection 2, the agent or other person shall, notwithstanding any agreement or law to the contrary, deduct or withhold from such payment an amount equal to 5 per cent thereof and in the prescribed time and manner remit the amount deducted or withheld to the Treasurer of Ontario on behalf of the corporation on account of the taxes payable by the corporation under this Act.

SECTION 18. This section adds a new section 148*a* to the Act to provide for the collection of tax payable by transient corporations which provide entertainment.

Persons about to make a payment for a performance will be required to deduct and remit to the Treasurer of Ontario 5 per cent thereof (subsections 2 and 3); penalty and interest will be payable for failure to comply (subsections 4 and 9); the person required to withhold and remit may be assessed therefor (subsection 4); and the sections of the Act relating to appeals and enforcement will apply to such an assessment (subsection 5). A person on behalf of whom an amount has been remitted may apply for a refund where no tax is payable (subsection 8). Finally, there are provisions to protect persons who withhold and remit amounts in compliance with this section (subsections 6 and 7).

(4) Any person who,

Liability
for tax

- (a) has failed to deduct or withhold any amount as required by this section with respect to a corporation referred to in subsection 1; or
- (b) having deducted or withheld an amount as required by this section, has failed to remit such amount to the Treasurer of Ontario as required by this section,

is liable when assessed therefor to pay on account of the taxes payable by the corporation under this Act the whole of the amount that should have been deducted or withheld or remitted, as the case may be, together with interest thereon, from the date that the amount was required to be remitted to the date of payment at the rate prescribed for the purposes of subsection 1 of section 149, and such person is entitled to deduct or withhold from any amount payable by him to the corporation or otherwise recover from the corporation any amount paid by him on account of tax under this section on behalf thereof.

(5) Divisions C, D, E and F of this Part, and Part VI except section 167, apply *mutatis mutandis* to an assessment under this section.

Application
of this Part
and Part VI

(6) No action lies against any person for deducting or withholding any sum of money in compliance or intended compliance with this section.

No action for
compliance

(7) The receipt of the Minister for an amount remitted by a person as required by this section is a good and sufficient discharge of the liability of such person to the corporation on behalf of which the amount was remitted to the extent of the amount referred to in the receipt.

Minister's
receipt

(8) Where a person on whose behalf an amount has been remitted to the Treasurer of Ontario after having been deducted or withheld under this section was not liable to pay any tax under this Act, the Minister shall, upon application in writing made within two years from the end of the calendar year in which the amount was remitted, pay to him the amount so remitted, unless he is otherwise liable or about to become liable to make a payment under this Act, in which case the Minister may apply the amount otherwise payable under this subsection to that payment and notify him of that fact.

Application
for refund

(9) Every person who has failed to remit an amount deducted or withheld as required by this section is liable

Penalty

to pay, in addition to that amount, a penalty of 10 per cent of that amount or \$10, whichever is the greater.

s. 149 (5),
re-enacted

- 19.** Subsection 5 of section 149 of the said Act, as re-enacted by the Statutes of Ontario, 1978, chapter 14, section 19, is repealed and the following substituted therefor:

Interest on
unpaid part or
instalment of
tax

(5) For the purpose of calculating interest under subsection 2, where a corporation is required to pay a part or instalment of tax for a taxation year pursuant to subsection 3 of section 148, the corporation shall be deemed to have been liable to pay the part or instalment determined,

(a) on the basis of the tax payable for the taxation year;

(b) under sub-subclause B of subclause i of clause *a* of subsection 3 of section 148; or

(c) subclause ii of clause *a* of subsection 3 of section 148,

whichever method gives the least amount required to be paid.

s. 150 (4) (a),
amended

- 20.** Clause *a* of subsection 4 of section 150 of the said Act, as amended by the Statutes of Ontario, 1977, chapter 58, sections 18 and 26, is further amended by adding thereto the following subclause:

(iva) has filed with the Minister of National Revenue for Canada a waiver within the time and in the form required by subsection 4 of section 152 of the *Income Tax Act* (Canada), or

R.S.C. 1952,
c. 148

s. 156,
re-enacted

- 21.** Section 156 of the said Act is repealed and the following substituted therefor:

Reply to
notice of
appeal

156. The Minister shall with all due dispatch serve on the corporation appealing and file in the Court a reply to the notice of appeal admitting or denying the facts alleged and containing a statement of such further allegations of fact and all statutory provisions and reasons as he intends to rely on, and where the Minister has failed to serve the reply within 180 days from the date of service upon him of the notice of appeal, the corporation may, upon twenty-one days notice to the Minister, apply to a judge of the Supreme Court for an order requiring the reply to be served within such time as the judge shall order, and the judge may, if he

SECTION 19. This section re-enacts subsection 5 of section 149 of the Act to make it clear that, for the purpose of calculating interest on deficiencies in instalment payments, the alternative base for determining the amount of instalments required will be the tax payable for the year rather than the corporation's estimate for the year.

SECTION 20. This section adds a new subclause *iva* to clause *a* of subsection 4 of section 150 of the Act to provide that the six year time limit for reassessments does not apply where the corporation has filed a waiver under the *Income Tax Act* (Canada) for the same year.

SECTION 21. This section re-enacts section 156 of the Act to specify the time within which the reply of the Minister is to be served, and provides a procedure where the reply is not served as required.

considers it proper in the circumstances, also order that, upon failure by the Minister to serve the reply in the time specified in the order, the assessment or part thereof, as the case may be, with respect to which the appeal is taken shall be vacated and any tax paid pursuant to such assessment or part thereof, as the case may be, shall be repaid to the corporation, but nothing in this section revives an appeal that is void or affects an assessment that has become valid and binding under subsection 7 of section 150.

22.—(1) Section 1 and subsection 2 of section 9 shall be deemed to have come into force on the 1st day of January, 1978 and apply to corporations in respect of all taxation years ending after 1977. Commence-
ment and
Application

(2) Subsection 1 of section 2, sections 7 and 8, subsection 1 of section 9, sections 10 and 11, subsections 2 and 4 of section 41 of the said Act, as re-enacted by section 12 of this Act, and sections 16 and 17 shall be deemed to have come into force on the 11th day of April, 1979 and apply to corporations in respect of all taxation years ending after the 10th day of April, 1979, except that with respect to the taxation year ending after the 10th day of April, 1979 and that includes that day, the following rules apply: Idem

- (a) determine the amount of tax payable under Parts II and III of the said Act as those Parts stood on the 10th day of April, 1979 on the assumption that those Parts as they so stood were applicable to that taxation year;
- (b) determine the proportion of the amount determined under clause *a* that the number of days of that taxation year prior to the 11th day of April, 1979 bears to the total number of days of that taxation year;
- (c) determine the amount of tax payable under Parts II and III of the said Act, as amended by subsection 1 of section 2, sections 7 and 8, subsection 1 of section 9 and sections 10, 11, 12, 16 and 17 of this Act, on the assumption that those Parts as so amended were applicable for that taxation year;
- (d) determine the proportion of the amount determined under clause *c* that the number of days of that taxation year that follow the 10th day of April, 1979 bears to the total number of days of that taxation year;

- (e) determine the aggregate of the amounts determined under clauses *b* and *d* in respect of the corporation,

and the aggregate determined under clause *e* is the amount payable by the corporation under Parts II and III of the said Act, as amended by subsection 1 of section 2, sections 7 and 8, subsection 1 of section 9, and sections 10, 11, 12, 16 and 17 of this Act, for its taxation year that ends after the 10th day of April, 1979 and that includes that day.

Idem

- (3) Subsection 2 of section 2, section 3, subsection 2 of section 4, and sections 5 and 6 shall come into force on a day to be named by proclamation of the Lieutenant Governor.

Idem

- (4) Subsection 1 of section 4 shall be deemed to have come into force on the 8th day of December, 1977 and applies to corporations in respect of all taxation years ending after the 7th day of December, 1977.

Idem

- (5) Subsection 5 of section 41 of the said Act, as re-enacted by section 12 of this Act, shall be deemed to have come into force on the 11th day of April, 1979 and applies to corporations in respect of all taxation years ending after the 10th day of April, 1979, except that for the purpose of a computation under paragraph *d* of subsection 6 of section 131 of the *Income Tax Act* (Canada) as made applicable by the said subsection 5 that is made at any time after the 10th day of April, 1979, the percentage referred to in the said subsection 5 shall, with respect to a taxation year,

R.S.C. 1952,
c. 148

- (a) that ends after the 7th day of March, 1978 and before the 11th day of April, 1979, be deemed to be "13 per cent"; and

- (b) that ends before the 8th day of March, 1978, be deemed to be "12 per cent".

Idem

- (6) Sections 13, 14 and 15 shall be deemed to have come into force on the 11th day of April, 1979 and apply to corporations in respect of all taxation years ending after the 10th day of April, 1979.

Idem

- (7) Section 18 shall come into force on the day this Act receives Royal Assent and applies to performances given on or after that date.

(8) Section 19 shall be deemed to have come into force on ^{Idem} the 1st day of July, 1978 and applies to corporations in respect of all taxation years commencing on or after that date.

(9) Section 20 shall come into force on the day this Act ^{Idem} receives Royal Assent and applies to waivers filed on or after that date.

(10) Section 21 shall be deemed to have come into force on ^{Idem} the 11th day of April, 1979 and applies to appeals instituted on or after that date.

23. The short title of this Act is *The Corporations Tax Amendment Act, 1979*. ^{Short title}

An Act to amend
The Corporations Tax Act, 1972

1st Reading

April 10th, 1979

2nd Reading

May 8th, 1979

3rd Reading

THE HON. L. MAECK
Minister of Revenue

*(Reprinted as amended by the
Committee of the Whole House)*

813
- B56

BILL 59

Continued
Publication

3RD SESSION, 31ST LEGISLATURE, ^TONTARIO
28 ELIZABETH II, 1979 *Legal*

**An Act to amend
The Corporations Tax Act, 1972**

THE HON. L. MAECK
Minister of Revenue



BILL 59

1979

An Act to amend The Corporations Tax Act, 1972

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 7 of section 7 of *The Corporations Tax Act, 1972*,<sup>s. 7 (7),
re-enacted</sup> being chapter 143, is repealed and the following substituted therefor:

(7) Where a corporation, otherwise having a permanent^{Idem} establishment in Canada, owns land in a province or territory of Canada, such land is a permanent establishment.

- 2.—(1) Subsection 6 of section 14 of the said Act, as re-enacted<sup>s. 14 (6),
amended</sup> by the Statutes of Ontario, 1977, chapter 58, section 8 and amended by 1978, chapter 21, section 1, is further amended by striking out “5/13ths” in the amendment of 1978 and inserting in lieu thereof “5/14ths”.

- (2) Subsection 11 of the said section 14 is repealed.<sup>s. 14 (11),
repealed</sup>

3. Subsection 5 of section 15 of the said Act, as re-enacted<sup>s. 15 (5),
repealed</sup> by the Statutes of Ontario, 1977, chapter 58, section 8, is repealed.

- 4.—(1) Clause *b* of subsection 3 of section 16 of the said Act, as re-enacted<sup>s. 16 (3) (b),
re-enacted</sup> by the Statutes of Ontario, 1977, chapter 58, section 8, is repealed and the following substituted therefor:

(b) there shall be included in computing a corporation's income for a taxation year any amount that has been deducted under section 18 in computing the corporation's income for the immediately preceding taxation year.<sup>Amount
deducted
under s. 18 in
preceding year</sup>

- (2) Subsections 4, 5 and 6 of the said section 16 are repealed.<sup>s. 16 (4, 5, 6),
repealed</sup>

s. 25 (5),
repealed

5. Subsection 5 of section 25 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 58, section 8, is repealed.

s. 31,
repealed

6. Section 31 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 58, section 8, is repealed.

s. 33,
amended

7. Section 33 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 58, section 8 and amended by 1978, chapter 21, section 2, is further amended by striking out "13 per cent" in the amendment of 1978 and inserting in lieu thereof "14 per cent".

s. 34,
amended

8. Section 34 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 58, section 8 and amended by 1978, chapter 21, section 3, is further amended by striking out "13 per cent" in the amendment of 1978 and inserting in lieu thereof "14 per cent".

s. 35 (1) (e),
amended

- 9.—(1) Clause *e* of subsection 1 of section 35 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 58, section 8 and amended by 1978, chapter 21, section 4, is further amended by striking out "13 per cent" in the amendment of 1978 and inserting in lieu thereof "14 per cent".

s. 35 (1) (f) (i),
re-enacted

- (2) Subclause *i* of clause *f* of subsection 1 of the said section 35 is repealed and the following substituted therefor:

- (i) that portion of the income or profits tax paid for the taxation year by the corporation to the jurisdiction outside Canada in respect of the foreign investment income referred to in clause *e*, that was not deducted, by virtue of subsection 12 of section 20 of the *Income Tax Act* (Canada) for the purposes of that Act or for the purposes of this Act by virtue of that subsection as made applicable by section 14 of this Act, in computing the corporation's income for the year, and

R.S.C. 1952,
c. 148

s. 36 (1),
amended

- 10.—(1) Subsection 1 of section 36 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 58, section 8, is amended by striking out "3 per cent" in the fifth line and inserting in lieu thereof "4 per cent".

s. 36 (5),
re-enacted

- (2) Subsection 5 of the said section 36 is repealed and the following substituted therefor:

(5) In this section, “tax otherwise payable under this Part” means the tax for the taxation year otherwise payable by the corporation under this Part after making any deduction applicable under sections 34 and 35, but before making any deduction under this section or section 36a. Interpretation

11. The said Act is amended by adding thereto the following section: s. 36a, enacted

36a.—(1) There may be deducted from the tax otherwise payable under this Part for a taxation year by a corporation an amount equal to 1 per cent of that proportion of the amount determined under subsection 2 that, Tax credit for eligible profits

- (a) that portion of its taxable income or taxable income earned in Canada, as the case may be, for the year remaining after deducting therefrom that portion thereof which is earned in the taxation year in jurisdictions other than Ontario as determined for the purpose of section 34,

is of

- (b) the aggregate of the portions of its taxable income or taxable income earned in Canada, as the case may be, for the taxation year which were earned in the provinces or territories of Canada as determined for the purpose of section 34.

(2) For the purpose of subsection 1, the amount determined under this subsection is the lesser of, Idem

- (a) the amount, if any, by which the corporation's eligible Canadian profits for the year exceeds the least of the amounts determined under paragraphs *a*, *b*, *c* and *d* of subsection 1 of section 125 of the *Income Tax Act* (Canada) in respect of the corporation for the year; and R.S.C. 1952, c. 148

- (b) the amount, if any, by which the corporation's taxable income for the year exceeds the aggregate of,

- (i) the least of the amounts determined under paragraphs *a*, *b*, *c* and *d* of subsection 1 of section 125 of the *Income Tax Act* (Canada) in respect of the corporation for the year,

- (ii) the amount, if any, of that portion of the corporation's taxable income for the year

which is earned in jurisdictions outside Canada as determined for the purpose of section 34, and

- (iii) the amount, if any, by which the aggregate of the corporation's Canadian investment income for the year and its foreign investment income for the year, as defined in subsection 4 of section 129 of the *Income Tax Act* (Canada), exceeds the amount, if any, deducted under paragraph *b* of subsection 1 of section 111 of that Act as made applicable by section 29, from the corporation's income for the year.

Interpre-
tation
eligible
Canadian
profits

(3) For the purposes of subsection 2, "eligible Canadian profits" of a corporation for a taxation year means such portion of the aggregate of all amounts each of which is the income of the corporation for the year from manufacturing and processing, mining, farming, logging or fishing carried on in Canada as is determined under rules prescribed for that purpose by the regulations.

s. 41 (2, 4, 5),
re-enacted

- 12.** Subsections 2, 4 and 5 of section 41 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 58, section 8 and amended by 1978, chapter 21, section 5, are repealed and the following substituted therefor:

Idem

(2) In the application of subparagraph *i* of paragraph *a* of subsection 2 of the said section 131 for the purposes of this Act, the percentage referred to therein shall be read as "7 per cent".

Idem

(4) In the application of clause A of subparagraph *i* of paragraph *a* and clause C of subparagraph *ii* of paragraph *b* of subsection 6 of the said section 131, for the purposes of this Act, the multiplication factor referred to therein shall be read as "14 2/7 times".

Idem

(5) In the application of paragraph *d* of subsection 6 of the said section 131 for the purposes of this Act, subparagraph *i* thereof shall be read without reference to clause C thereof, and the percentage referred to in clauses A and B of the said subparagraph shall be read as "14 per cent".

s. 126 (1) (c),
re-enacted

- 13.—(1)** Clause *c* of subsection 1 of section 126 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 58,

section 9, is repealed and the following substituted therefor:

- (c) all its reserves, whether created from income or otherwise, except any reserve the creation of which is allowed as a deduction under the provisions of Part II, except that the reserves the creation of which is allowed as a deduction under the following provisions of Part II shall be included in paid-up capital,

- (i) paragraph *n* of subsection 1 of section 20 of the *Income Tax Act* (Canada) as that para-^{R.S.C. 1952, c. 148}graph applies by virtue of subsections 1 and 8 of section 14 of this Act,

- (ii) subparagraph iii of paragraph *a* of subsection 1 of section 40 of the *Income Tax Act* (Canada) as that subparagraph applies by virtue of subsection 1 of section 15 of this Act, and

- (iii) subsection 1 of section 18.

- (2) The said section 126, as amended by the Statutes of^{s. 126, amended} Ontario, 1973, chapter 42, section 11, 1977, chapter 16, section 3, 1977, chapter 58, sections 9 and 26 and 1978, chapter 14, section 12, is further amended by adding thereto the following subsection:

- (4) For the purpose of subsection 1 the paid-up capital^{Interpretation} of the corporate partners of a partnership shall, with respect to their interests in the partnership, be determined in accordance with the following rules:

- (a) determine the paid-up capital of the partnership as if it were a corporation;
 - (b) allocate the paid-up capital of the partnership as determined under clause *a* to each partner thereof in the same proportion as the share of the profits to which the partner is entitled under the partnership agreement;
 - (c) where a general partner of a limited partnership is a corporation, and where,
 - (i) an individual who is a limited partner thereof or a member of his family is a shareholder of or is related to the general partner, or

- (ii) a trust, the beneficiaries of which are related to any person mentioned in subclause i, is a limited partner thereof,

the amount allocated to such limited partner under clause *b* shall be added to the paid-up capital of the general partner otherwise allocated to it under clause *b*; and

- (*d*) where two or more general partners of a limited partnership are corporations and where a limited partner referred to in clause *c* is a shareholder of or is related to two or more of such general partners the amount allocated to such limited partner under clause *b* shall be apportioned and added to the paid-up capital of each general partner of which the limited partner is a shareholder or to which he is related in the same proportion that the share of the profits of the limited partnership of that general partner is to the total share of the profits of the limited partnership of all of the general partners of which the limited partner is a shareholder or to which he is related.

s. 127 (1)
(c) (ii),
re-enacted

- 14.—**(1) Subclause ii of clause *c* of subsection 1 of section 127, as re-enacted by the Statutes of Ontario, 1977, chapter 58, section 10, is repealed and the following substituted therefor:

- (ii) cash on deposit with any corporation doing the business of a savings bank and amounts due by a corporation with its head office outside Canada to a related corporation that is taxable under this Part are deemed not to be loans and advances to other corporations.

s. 127 (2) (*d*),
re-enacted

- (2) Clause *d* of subsection 2 of the said section 127, as re-enacted by the Statutes of Ontario, 1977, chapter 58, section 10, is repealed and the following substituted therefor:

- (*d*) by which the value of an asset of a corporation has been written down and deducted from its income or undivided profits where such amount is deductible under the provisions of Part II except,

- (i) paragraph *n* of subsection 1 of section 20 of the *Income Tax Act* (Canada) as that para-

graph applies by virtue of subsections 1 and 8 of section 14 of this Act,

- (ii) subparagraph iii of paragraph *a* of subsection 1 of section 40 of the *Income Tax Act* R.S.C. 1952, c. 148 (Canada) as that subparagraph applies by virtue of subsection 1 of section 15 of this Act, and

- (iii) subsection 1 of section 18.

- 15.** Section 128 of the said Act, as amended by the Statutes of s. 128, amended Ontario, 1973, chapter 42, section 13 and 1977, chapter 58, section 11, is further amended by adding thereto the following subsection:

(3) For the purpose of subsection 1, the paid-up capital of the corporate partners of a partnership shall, with respect to their interests in the partnership, be determined in accordance with the rules provided in clauses *a*, *b*, *c* and *d* of subsection 4 of section 126. Determination of paid-up capital

- 16.** Section 131, as re-enacted by the Statutes of Ontario, 1977, ss. 131, 132, re-enacted chapter 16, section 4 and amended by 1977, chapter 58, section 26 and 1978, chapter 14, section 14, and section 132, as re-enacted by the Statutes of Ontario, 1977, chapter 16, section 4 and amended by 1977, chapter 58, section 26 and 1978, chapter 14, section 15, of the said Act are repealed and the following substituted therefor:

131.—(1) Except as provided in subsections 2 and 3, Rate of capital tax the tax payable under this Part by a corporation for a taxation year calculated upon its taxable paid-up capital or taxable paid-up capital employed in Canada, as the case may be, in this subsection referred to as the “amount taxable”, is three-tenths of 1 per cent of the amount taxable.

(2) The tax payable under this Part by a bank for a taxation year calculated upon its taxable paid-up capital, Rate of capital tax on banks in this subsection referred to as the “amount taxable” is four-fifths of 1 per cent of the amount taxable.

(3) The tax payable under this Part by a corporation registered under *The Loan and Trust Corporations Act* for a taxation year calculated upon its taxable paid-up capital, Rate of tax on loan and trust corporations in this subsection referred to as the “amount taxable” is three-fifths of 1 per cent of the amount taxable.

132.—(1) Except as provided in subsections 2 and 3, Deduction from tax on paid-up capital there may be deducted from the tax otherwise payable under

this Part by a corporation for a taxation year an amount equal to three-tenths of 1 per cent of that portion of the taxable paid-up capital or taxable paid-up capital employed in Canada, as the case may be, that is deemed to be used by the corporation in the taxation year in each jurisdiction outside Ontario determined under rules prescribed by the regulations.

Idem

(2) There may be deducted from the tax otherwise payable under this Part by a bank for a taxation year an amount equal to four-fifths of 1 per cent of that portion of its taxable paid-up capital that is deemed to be used by the bank in the taxation year in each jurisdiction outside Ontario determined under rules prescribed by the regulations.

Idem

R.S.O. 1970,
c. 254

(3) There may be deducted from the tax otherwise payable under this Part by a corporation registered under *The Loan and Trust Corporations Act* for a taxation year an amount equal to three-fifths of 1 per cent of that portion of its taxable paid-up capital that is deemed to be used by the corporation registered under *The Loan and Trust Corporations Act* in the taxation year in each jurisdiction outside Ontario determined under rules prescribed by the regulations.

s. 133a,
re-enacted

17. Section 133a of the said Act, as enacted by the Statutes of Ontario, 1977, chapter 16, section 5 and amended by the Statutes of Ontario, 1977, chapter 58, section 26, is repealed and the following substituted therefor:

Flat rate
tax

133a.—(1) Notwithstanding subsection 1 of section 131 and subsection 1 of section 132, and except as provided in subsections 1 and 2 of section 135, the tax payable by a corporation under this Part for a taxation year shall be,

(a) \$50, where its taxable paid-up capital or taxable paid-up capital employed in Canada, as the case may be, does not exceed \$100,000;

(b) the lesser of,

(i) the tax that would otherwise be payable under this Part if subsection 1 of section 131 and subsection 1 of section 132 were applicable, and

(ii) \$100,

where its taxable paid-up capital or taxable paid-up capital employed in Canada, as the case may be, exceeds \$100,000 but does not exceed \$200,000; or

(c) the lesser of,

(i) the tax that would otherwise be payable under this Part if subsection 1 of section 131 and subsection 1 of section 132 were applicable, and

(ii) \$100,

where its taxable paid-up capital or taxable paid-up capital employed in Canada, as the case may be, exceeds \$200,000 but does not exceed \$1,000,000 and the corporation has no taxable income for the year or has a loss for the year as determined in accordance with subsection 3.

(2) Notwithstanding subsection 1 of section 131 and subsection 1 of section 132, and except as provided in subsections 1 and 2 of section 135, where the taxable paid-up capital or the taxable paid-up capital employed in Canada, as the case may be, of a corporation for a taxation year exceeds \$200,000, but does not exceed \$300,000, and where clause *c* of subsection 1 does not apply, the tax payable under this Part for a taxation year by the corporation shall be the lesser of,

Notch
provision

(a) the tax that would otherwise be payable under this Part if subsection 1 of section 131 and subsection 1 of section 132 were applicable; and

(b) the amount by which the tax that would otherwise be payable under this Part if no deduction were made under subsection 1 of section 132 exceeds $\frac{1}{2}$ of 1 per cent of the amount by which,

(i) \$300,000

exceeds

(ii) its taxable paid-up capital or taxable paid-up capital employed in Canada, as the case may be.

(3) For the purposes of clause *c* of subsection 1, a corporation has no taxable income for a taxation year or a loss for a taxation year if it has no income for the year or has

Interpre-
tation

a loss for the year after making the deductions permitted by Part II other than the deductions under,

- (a) clauses *a* and *d* of subsection 7 of section 14;
- (b) paragraphs *b* and *gg* of subsection 1 of section 20 of the *Income Tax Act* (Canada) as made applicable by section 14;
- (c) subsection 16 of section 20 of the *Income Tax Act* (Canada) as made applicable by section 14;
- (d) section 19; and
- (e) paragraphs *a*, *b* and *b.1* of subsection 1 of section 110 of the *Income Tax Act* (Canada) and sections 111, 112 and 113 of the *Income Tax Act* (Canada), all as made applicable by section 29.

R.S.C. 1952,
c. 148

s. 148*a*,
enacted

18. The said Act is further amended by adding thereto the following section:

Entertain-
ment
corporations

148*a*.—(1) This section applies where a corporation to which subsection 2 or 3 of section 2 is applicable is deemed by subsection 8 of section 7 to have maintained a permanent establishment in Ontario by virtue of it having produced or presented any form of entertainment by means of a performance in a public place in Ontario.

Withholding

(2) Any person that is about to make a payment to a corporation referred to in subsection 1 as consideration for the performance shall, notwithstanding any agreement or law to the contrary, deduct or withhold an amount equal to 5 per cent thereof and in the prescribed time and manner remit the amount deducted or withheld to the Treasurer of Ontario on behalf of the corporation on account of the taxes payable by the corporation under this Act.

Idem

(3) Where an amount has been paid to an agent or other person for or on behalf of a corporation referred to in subsection 1 as consideration for the performance without an amount having been deducted or withheld as required under subsection 2, the agent or other person shall, notwithstanding any agreement or law to the contrary, deduct or withhold from such payment an amount equal to 5 per cent thereof and in the prescribed time and manner remit the amount deducted or withheld to the Treasurer of Ontario on behalf of the corporation on account of the taxes payable by the corporation under this Act.

(4) Any person who,

Liability
for tax

- (a) has failed to deduct or withhold any amount as required by this section with respect to a corporation referred to in subsection 1; or
- (b) having deducted or withheld an amount as required by this section, has failed to remit such amount to the Treasurer of Ontario as required by this section,

is liable when assessed therefor to pay on account of the taxes payable by the corporation under this Act the whole of the amount that should have been deducted or withheld or remitted, as the case may be, together with interest thereon, from the date that the amount was required to be remitted to the date of payment at the rate prescribed for the purposes of subsection 1 of section 149, and such person is entitled to deduct or withhold from any amount payable by him to the corporation or otherwise recover from the corporation any amount paid by him on account of tax under this section on behalf thereof.

(5) Divisions C, D, E and F of this Part, and Part VI except section 167, apply *mutatis mutandis* to an assessment under this section.

Application
of this Part
and Part VI

(6) No action lies against any person for deducting or withholding any sum of money in compliance or intended compliance with this section.

No action for
compliance

(7) The receipt of the Minister for an amount remitted by a person as required by this section is a good and sufficient discharge of the liability of such person to the corporation on behalf of which the amount was remitted to the extent of the amount referred to in the receipt.

Minister's
receipt

(8) Where a person on whose behalf an amount has been remitted to the Treasurer of Ontario after having been deducted or withheld under this section was not liable to pay any tax under this Act, the Minister shall, upon application in writing made within two years from the end of the calendar year in which the amount was remitted, pay to him the amount so remitted, unless he is otherwise liable or about to become liable to make a payment under this Act, in which case the Minister may apply the amount otherwise payable under this subsection to that payment and notify him of that fact.

Application
for refund

(9) Every person who has failed to remit an amount deducted or withheld as required by this section is liable

Penalty

to pay, in addition to that amount, a penalty of 10 per cent of that amount or \$10, whichever is the greater.

s. 149 (5),
re-enacted

- 19.** Subsection 5 of section 149 of the said Act, as re-enacted by the Statutes of Ontario, 1978, chapter 14, section 19, is repealed and the following substituted therefor:

Interest on
unpaid part or
instalment of
tax

(5) For the purpose of calculating interest under subsection 2, where a corporation is required to pay a part or instalment of tax for a taxation year pursuant to subsection 3 of section 148, the corporation shall be deemed to have been liable to pay the part or instalment determined,

(a) on the basis of the tax payable for the taxation year;

(b) under sub-subclause B of subclause i of clause *a* of subsection 3 of section 148; or

(c) subclause ii of clause *a* of subsection 3 of section 148,

whichever method gives the least amount required to be paid.

s. 150 (4) (a),
amended

- 20.** Clause *a* of subsection 4 of section 150 of the said Act, as amended by the Statutes of Ontario, 1977, chapter 58, sections 18 and 26, is further amended by adding thereto the following subclause:

(iva) has filed with the Minister of National Revenue for Canada a waiver within the time and in the form required by subsection 4 of section 152 of the *Income Tax Act* (Canada), or

R.S.C. 1952,
c. 148

s. 156,
re-enacted

- 21.** Section 156 of the said Act is repealed and the following substituted therefor:

Reply to
notice of
appeal

156. The Minister shall with all due dispatch serve on the corporation appealing and file in the Court a reply to the notice of appeal admitting or denying the facts alleged and containing a statement of such further allegations of fact and all statutory provisions and reasons as he intends to rely on, and where the Minister has failed to serve the reply within 180 days from the date of service upon him of the notice of appeal, the corporation may, upon twenty-one days notice to the Minister, apply to a judge of the Supreme Court for an order requiring the reply to be served within such time as the judge shall order, and the judge may, if he

considers it proper in the circumstances, also order that, upon failure by the Minister to serve the reply in the time specified in the order, the assessment or part thereof, as the case may be, with respect to which the appeal is taken shall be vacated and any tax paid pursuant to such assessment or part thereof, as the case may be, shall be repaid to the corporation, but nothing in this section revives an appeal that is void or affects an assessment that has become valid and binding under subsection 7 of section 150.

22.—(1) Section 1 and subsection 2 of section 9 shall be deemed to have come into force on the 1st day of January, 1978 and apply to corporations in respect of all taxation years ending after 1977. Commence-
ment and
Application

(2) Subsection 1 of section 2, sections 7 and 8, subsection 1 of section 9, sections 10 and 11, subsections 2 and 4 of section 41 of the said Act, as re-enacted by section 12 of this Act, and sections 16 and 17 shall be deemed to have come into force on the 11th day of April, 1979 and apply to corporations in respect of all taxation years ending after the 10th day of April, 1979, except that with respect to the taxation year ending after the 10th day of April, 1979 and that includes that day, the following rules apply: Idem

- (a) determine the amount of tax payable under Parts II and III of the said Act as those Parts stood on the 10th day of April, 1979 on the assumption that those Parts as they so stood were applicable to that taxation year;
- (b) determine the proportion of the amount determined under clause *a* that the number of days of that taxation year prior to the 11th day of April, 1979 bears to the total number of days of that taxation year;
- (c) determine the amount of tax payable under Parts II and III of the said Act, as amended by subsection 1 of section 2, sections 7 and 8, subsection 1 of section 9 and sections 10, 11, 12, 16 and 17 of this Act, on the assumption that those Parts as so amended were applicable for that taxation year;
- (d) determine the proportion of the amount determined under clause *c* that the number of days of that taxation year that follow the 10th day of April, 1979 bears to the total number of days of that taxation year;

- (e) determine the aggregate of the amounts determined under clauses *b* and *d* in respect of the corporation,

and the aggregate determined under clause *e* is the amount payable by the corporation under Parts II and III of the said Act, as amended by subsection 1 of section 2, sections 7 and 8, subsection 1 of section 9, and sections 10, 11, 12, 16 and 17 of this Act, for its taxation year that ends after the 10th day of April, 1979 and that includes that day.

Idem

- (3) Subsection 2 of section 2, section 3, subsection 2 of section 4, and sections 5 and 6 shall come into force on a day to be named by proclamation of the Lieutenant Governor.

Idem

- (4) Subsection 1 of section 4 shall be deemed to have come into force on the 8th day of December, 1977 and applies to corporations in respect of all taxation years ending after the 7th day of December, 1977.

Idem

- (5) Subsection 5 of section 41 of the said Act, as re-enacted by section 12 of this Act, shall be deemed to have come into force on the 11th day of April, 1979 and applies to corporations in respect of all taxation years ending after the 10th day of April, 1979, except that for the purpose of a computation under paragraph *d* of subsection 6 of section 131 of the *Income Tax Act* (Canada) as made applicable by the said subsection 5 that is made at any time after the 10th day of April, 1979, the percentage referred to in the said subsection 5 shall, with respect to a taxation year,

R.S.C. 1952,
c. 148

- (a) that ends after the 7th day of March, 1978 and before the 11th day of April, 1979, be deemed to be "13 per cent"; and

- (b) that ends before the 8th day of March, 1978, be deemed to be "12 per cent".

Idem

- (6) Sections 13, 14 and 15 shall be deemed to have come into force on the 11th day of April, 1979 and apply to corporations in respect of all taxation years ending after the 10th day of April, 1979.

Idem

- (7) Section 18 shall come into force on the day this Act receives Royal Assent and applies to performances given on or after that date.

- (8) Section 19 shall be deemed to have come into force on ^{Idem} the 1st day of July, 1978 and applies to corporations in respect of all taxation years commencing on or after that date.
- (9) Section 20 shall come into force on the day this Act ^{Idem} receives Royal Assent and applies to waivers filed on or after that date.
- (10) Section 21 shall be deemed to have come into force on ^{Idem} the 11th day of April, 1979 and applies to appeals instituted on or after that date.
- 23.** The short title of this Act is *The Corporations Tax Amendment Act, 1979*. ^{Short title}

An Act to amend
The Corporations Tax Act, 1972

1st Reading

April 10th, 1979

2nd Reading

May 8th, 1979

3rd Reading

May 8th, 1979

THE HON. L. MAECK
Minister of Revenue

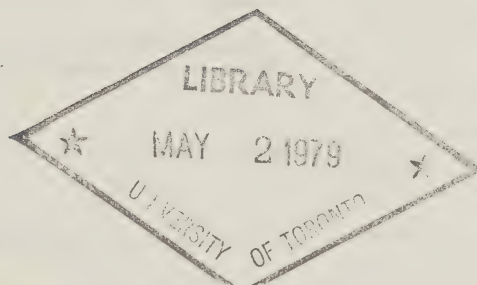
BILL 60

Private Member's Bill

3RD SESSION, 31ST LEGISLATURE, ONTARIO
28 ELIZABETH II, 1979

**An Act to amend
The Funeral Services Act, 1976**

MR. FOULDS



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTE

The purpose of the Bill is to make several reforms to *The Funeral Services Act, 1976*. The principal features of the Bill are the following:

1. The composition of the Board of Funeral Services is changed to increase the representation of persons who are not licensees under the Act. (s.2)
2. The Registrar of the Board of Funeral Services shall not be a person who is licensed under the Act unless six members of the Board approve. (s.3)
3. The restriction that only persons licensed under the Act may provide funeral supplies is discontinued. (s.4)
4. The composition of the Complaints Committee is altered so that a majority of the members are persons who are not licensed under the Act. (s.5)
5. A funeral director must provide an itemized price list to a purchaser of funeral services and supplies before the purchaser enters into any agreement for the provision of any funeral services and supplies. (s.6)
6. A funeral director shall not embalm any dead human body unless he has been specifically instructed to do so by the purchaser of funeral services or unless the body is to be transported out of Ontario. (s.7)
7. The administration of the Act is placed under the Minister of Consumer and Commercial Relations. (s.1)

BILL 60

1979

**An Act to amend
The Funeral Services Act, 1976**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clauses *c*, *d*, *e* and *f* of section 1 of *The Funeral Services Act*, s. 1 (*c-f*),
1976, being chapter 83, are repealed and the following sub- re-enacted
stituted therefor:

- (c) "funeral director" means a person licensed under this Act to engage in providing or directing the providing of funeral services to the public;
- (d) "funeral services" means the services usually provided by a funeral director but does not include the providing of removal services, funeral supplies, or advice in respect of funeral services;
- (e) "funeral services establishment" means a premises established or maintained for the purpose of providing funeral services to the public;
- (f) "Minister" means the Minister of Consumer and Commercial Relations.

2. Subsection 2 of section 2 of the said Act is repealed and the following substituted therefor: s. 2 (2),
re-enacted

- (2) The Board shall be composed of, Composition
 - (a) four funeral directors, one of whom is not licensed to establish or maintain or who does not direct the operation of a funeral services establishment, appointed by the Lieutenant Governor in Council; and
 - (b) four persons who are not licensees under this Act, appointed by the Lieutenant Governor in Council

and one person appointed by the Memorial Society of Canada (Ontario Region).

s. 3,
amended

- 3.** Section 3 of the said Act is amended by adding thereto the following subsection:

Appointment
of Registrar

(2) A person who is a licensee under this Act shall not be appointed Registrar unless six members of the Board approve the appointment.

s. 5 (1),
re-enacted

- 4.**—(1) Subsection 1 of section 5 of the said Act is repealed and the following substituted therefor:

Funeral
director's
licence

(1) No person shall engage in or hold himself out as engaging in providing funeral services unless he is licensed as a funeral director under this Act.

s. 5 (3),
re-enacted

(2) Subsection 3 of the said section 5 is repealed and the following substituted therefor:

Proof of
performance

(3) For the purposes of subsection 1, proof of the performance of one act in providing funeral services on one occasion is sufficient to establish engaging in providing funeral services to the public.

s. 10 (1),
re-enacted

- 5.** Subsection 1 of section 10 of the said Act is repealed and the following substituted therefor:

Complaints
Committee

(1) The Complaints Committee shall be composed of three persons who are members of the Board, two of whom shall be persons appointed to the Board under clause *b* of subsection 2 of section 2.

s. 36a,
enacted

- 6.** The said Act is amended by adding thereto the following section:

Itemized
price list

36a.—(1) No person who is a licensee under this Act shall enter into an agreement to provide funeral services or funeral supplies to a purchaser unless that person has delivered to the purchaser before entering into the agreement an itemized price list setting out the full price for each service and supply proposed to be provided to the purchaser.

Where
agreement
not binding
on purchaser

(2) An agreement for the purchase and sale of funeral services and funeral supplies is not binding on the purchaser unless the purchaser has received the itemized price list as required by subsection 1.

s. 37,
re-enacted

- 7.** Section 37 of the said Act is repealed and the following substituted therefor:

37.—(1) No person who is a licensee under this Act shall Embalming embalm a human body unless,

(a) the embalming has been specifically directed by the purchaser of funeral services and provided for in an agreement for the purchase and sale of funeral services; or

(b) the human body is to be transported out of Ontario.

(2) No person shall transport a dead human body out of Transportation of body out of Ontario Ontario unless it has been embalmed and prepared for transport by a funeral director.

8. Subsection 1 of section 38 of the said Act is repealed and the s. 38 (1), re-enacted following substituted therefor:

(1) Every person who is in contravention of subsection 1 Penalties or 2 of section 5, subsection 1 of section 24, subsection 1 of section 36a or subsection 1 of section 37 is guilty of an offence and on summary conviction is liable for the first offence to a fine of not more than \$2,000 and for each subsequent offence to a fine of not more than \$2,000 or to imprisonment for a term of not more than six months.

9. This Act comes into force on the day it receives Royal Assent. Commencement

10. The short title of this Act is *The Funeral Services Amendment Act, 1979*. Short title

An Act to amend
The Funeral Services Act, 1976

1st Reading

April 17th, 1979

2nd Reading

3rd Reading

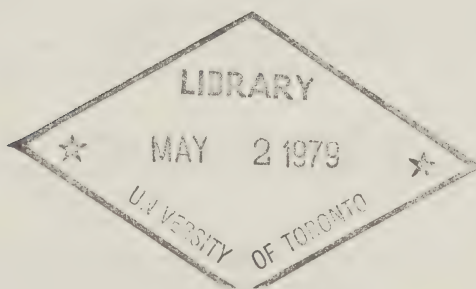
MR. FOULDS

(Private Member's Bill)

3RD SESSION, 31ST LEGISLATURE, ONTARIO
28 ELIZABETH II, 1979

**An Act respecting the
Public Accountability of Ontario Hydro**

MR. REED



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTE

The purpose of this Bill is to provide a means of clarifying the functions and duties of Ontario Hydro related to the production, generation, transmission, distribution, supply, sale, use and development of energy resources in Ontario. The Bill requires the Minister of Energy on behalf of the Government of Ontario to issue a policy directive setting out the policy framework within which Ontario Hydro is to make operational and management decisions. *The Power Corporation Act* is amended to clarify that it is a responsibility of the Board of Ontario Hydro to ensure that the business of Ontario Hydro is conducted within the limits established by the policy directive issued by the Minister of Energy.

An Act respecting the Public Accountability of Ontario Hydro

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

PART I

The Ministry of Energy Act, 1973

1. *The Ministry of Energy Act, 1973*, being chapter 56, is amended <sup>s. 8a,
enacted</sup> by adding thereto the following section:

8a.—(1) On or before the 1st day of January, 1980, the Minister shall issue on behalf of the Government of Ontario a comprehensive policy directive in the form of a statement setting out the policy framework in respect of the production, generation, transmission, distribution, supply, sale, use and development of energy resources in Ontario within which Ontario Hydro formulates operational and management decisions, and, without limiting the generality of the foregoing, the policy directive shall contain,

- (a) a statement of the respective duties and functions of the Government of Ontario and Ontario Hydro in relation to energy matters;
- (b) a specification of the policy objectives of the Government of Ontario in relation to energy matters;
- (c) a specification of the financial objectives of Ontario Hydro;
- (d) a specification of the limitations that may be imposed upon the operations of Ontario Hydro by the Government of Ontario and the conditions under which these limitations may be imposed;

- (e) a description of the future operations to be conducted by Ontario Hydro in order to fulfil its responsibilities and assist in achieving the policy objectives established by the Government of Ontario, including an estimate of the extent to which these operations will require financial assistance from the Government of Ontario.

Amendments,
revision

- (2) The policy directive shall be amended or revised from time to time to reflect any change in the policy of the Government of Ontario concerning the matters referred to in subsection 1.

Tabling of
directive in
Assembly

- (3) The Minister shall lay the policy directive and every amendment or revised policy directive before the Assembly if it is in session, or, if not, at the commencement of the next ensuing session.

PART II

The Power Corporation Act

s. 4 (1),
re-enacted

2. Subsection 1 of section 4 of *The Power Corporation Act*, being chapter 354 of the Revised Statutes of Ontario, 1970, as re-enacted by the Statutes of Ontario, 1973, chapter 57, section 4, is repealed and the following substituted therefor:

Powers of
Board

- (1) The business and affairs of the Corporation are under the direction and control of the Board subject to any policy direction of the Minister of Energy issued on behalf of the Government of Ontario and the chairman shall preside at all meetings of the Board.

s. 58,
re-enacted

3. Section 58 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 57, section 2, is repealed and the following substituted therefor:

Business of
Corporation

58. The purposes and business of the Corporation include the generation, transmission, distribution, supply, sale and use of power, and, subject to,

- (a) the provisions of policy directives of the Ministry of Energy issued on behalf of the Government of Ontario; and
- (b) the prior authority of the Lieutenant Governor in Council in the exercise of certain powers where required under this Act,

the Corporation has power and authority to do all such things as in its opinion are necessary, usual or incidental to the furtherance of such purposes and to the carrying on of its business.

4. This Act comes into force on the day it receives Royal Assent. Commence-
ment
5. The short title of this Act is *The Ontario Hydro Accountability Act, 1979*. Short title

An Act respecting the
Public Accountability of Ontario Hydro

1st Reading

April 17th, 1979

2nd Reading

3rd Reading

MR. REED

(Private Member's Bill)

BILL 62

Private Member's Bill

3RD SESSION, 31ST LEGISLATURE, ONTARIO
28 ELIZABETH II, 1979

**An Act to amend
The Employment Standards Act, 1974**

MR. BREAUGH



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTE

The purpose of the Bill is to extend the application of Part XII of *The Employment Standards Act, 1974* to employees who are employed for a definite term or task and to persons who are laid off or terminated during or as a result of a strike or lock-out at his place of employment.

BILL 62

1979

**An Act to amend
The Employment Standards Act, 1974**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause *a* of subsection 3 of section 40 of *The Employment Standards Act, 1974*, being chapter 112, is repealed. s. 40 (3) (a),
repealed
2. Notwithstanding clause *d* of section 2 of Regulation 251 of Revised Regulations of Ontario, 1970, it is hereby declared Declaration re
R.R.O. 1970,
Reg. 251,
s. 2 (d) that Part XII of *The Employment Standards Act, 1974* applies to a person who is laid off or terminated during or as a result of a strike or lock-out at his place of employment.
3. This Act comes into force on the day it receives Royal Assent. Commence-
ment
4. The short title of this Act is *The Employment Standards Amendment Act, 1979*. Short title

An Act to amend
The Employment Standards Act, 1974

1st Reading

April 17th, 1979

2nd Reading

3rd Reading

MR. BREUGH

(Private Member's Bill)

3RD SESSION, 31ST LEGISLATURE, ONTARIO
28 ELIZABETH II, 1979

An Act respecting Simcoe Day

MR. SMITH (Simcoe East)

TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTE

The purpose of the Bill is to change the name of the public holiday celebrated in many municipalities on the first Monday in August from "Civic Holiday" to Simcoe Day in honour of John Graves Simcoe who was appointed first Lieutenant Governor of Upper Canada on September 12th, 1791, and who convened the first legislative assembly and established the capital of the Province at York, now Toronto.

BILL 63

1979

An Act respecting Simcoe Day

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Where the first Monday in August in any year is ^{Simcoe Day} proclaimed a public holiday in a municipality, the name of the holiday shall be Simcoe Day.
2. Any Act, regulation, proclamation, contract or document that refers to a public holiday by the name of "Civic Holiday" shall be deemed to refer to Simcoe Day. ^{Other references}
3. This Act comes into force on the day it receives ^{Commence-} Royal Assent. ^{ment}
4. The short title of this Act is *The Simcoe Day Act*, ^{Short title} 1979.

An Act respecting
Simcoe Day

1st Reading

April 19th, 1979

2nd Reading

3rd Reading

MR. SMITH (Simcoe East)

(Private Member's Bill)

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7
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BILL 64

Private Member's Bill

3RD SESSION, 31ST LEGISLATURE, ONTARIO
28 ELIZABETH II, 1979

James R. ...
11

**An Act to amend
The Legislative Assembly Act**

MR. BREITHAUPT



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTE

The purpose of the Bill is to provide for the appointment of a Curator of Queen's Park. The Curator of Queen's Park will be responsible for advising the Speaker of the Legislative Assembly and the Lieutenant Governor in Council concerning the conservation, protection and preservation of the heritage of Queen's Park.

BILL 64

1979

An Act to amend The Legislative Assembly Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Legislative Assembly Act*, being chapter 240 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following section: s. 73a,
enacted

73a.—(1) A Curator of Queen's Park shall be appointed by the Lieutenant Governor in Council upon such terms and conditions as the Speaker may recommend. Curator of
Queen's Park

(2) The Curator of Queen's Park shall hold office during good behaviour but shall be removable from office for cause by the Lieutenant Governor in Council on address of the Assembly. Tenure of
office

(3) The Curator of Queen's Park shall, Duties of
Curator

(a) compile and maintain an inventory of all structures, objects and locations at Queen's Park that have historical, architectural or aesthetic significance;

(b) advise and make recommendations to the Speaker and to the Lieutenant Governor in Council on any matter relating to the conservation, protection and preservation of the heritage of Queen's Park including any renovation, restoration or alteration to a structure, object or location listed in the inventory that the Curator considers advisable.

(4) Such parts of the area of land within the area bounded by Queen's Park Crescent as may be designated by the Lieutenant Governor in Council shall constitute Queen's Park for determining the duties of the Curator of Queen's Park and the order in council shall be laid before the Assembly. Queen's Park

Commence-
ment

2. This Act comes into force on the day it receives Royal Assent.

Short title

3. The short title of this Act is *The Legislative Assembly Amendment Act, 1979*.

An Act to amend
The Legislative Assembly Act

1st Reading

April 19th, 1979

2nd Reading

3rd Reading

MR. BREITHAUPT

(Private Member's Bill)

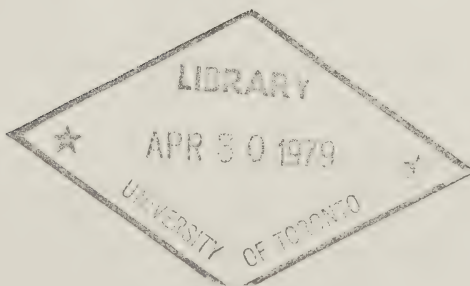
BILL 65

Private Member's Bill

3RD SESSION, 31ST LEGISLATURE, ONTARIO
28 ELIZABETH II, 1979

An Act to amend The Election Act

MR. LELUK



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTES

SECTION 1. The re-enacted section 35 enlarges the grounds upon which a person is entitled to appoint a voting proxy.

BILL 65

1979

An Act to amend The Election Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 35 of *The Election Act*, being chapter 142 of the Revised Statutes of Ontario, 1970, as amended by the Statutes of Ontario, 1971, chapter 100, section 5, is repealed and the following substituted therefor: s. 35,
re-enacted

35.—(1) Where a qualified voter whose name appears on the list of voters for a polling subdivision has reason to believe that he will be unable to vote at the advance poll or on polling day by reason of, Appointment
of proxy

- (a) illness or physical incapacity;
- (b) being a regular or reserve member of the Canadian Forces on active service as defined by the *National Defence Act* (Canada); or R.S.C. 1970,
c. N-4
- (c) an inability to attend at the poll due to absence or otherwise,

he may appoint in writing a proxy to vote for him at the election.

(2) The appointment of a proxy shall name some other person qualified to vote in the electoral district in which the person appointing the proxy is entitled to vote, and no appointment of a proxy is valid unless it is made after the date of the issue of the writ of election or remains in force after polling day. Term of
appointment

(3) A voter may act as proxy for the voter's spouse and any number of the voter's children or other relatives but may act for only one person who is not a relative. Who proxy
may act
for

Certificate

(4) The returning officer or assistant revising officer on any day up to and including polling day shall take evidence on oath as to the reason for the proxy and the eligibility and qualifications of the person appointing the proxy and of the voting proxy and, if it appears that both such persons are duly qualified, the returning officer or assistant revising officer shall issue a certificate to that effect.

Proxy may
vote in
own right

(5) A person who has been appointed as a voting proxy is entitled to vote in his own right in the electoral district notwithstanding that he has voted as a proxy.

Cancellation
of certificate

(6) A person who has appointed a voting proxy may cancel such appointment by returning the proxy certificate to the returning officer for cancellation or by notifying the returning officer and the voting proxy in writing of such cancellation.

s. 134,
re-enacted

2. Section 134 of the said Act, as re-enacted by the Statutes of Ontario, 1971, chapter 100, section 9, is repealed and the following substituted therefor:

Improper
voting
by proxy

134. Every person who,

- (a) having appointed a voting proxy to vote at an election, attempts to vote at the election otherwise than by means of such voting proxy while the voting proxy is in force;
- (b) having been appointed a voting proxy at an election, votes or attempts to vote at the election under the authority of the proxy when he knows or has reasonable grounds for supposing that his appointment has been cancelled or that the voter who made the appointment is dead or is no longer entitled to vote;
- (c) induces or procures any person to appoint a voting proxy to vote at an election;
- (d) solicits or attempts to solicit from a person an appointment as a voting proxy to vote at an election; or
- (e) appoints a proxy for reward or remuneration,

is guilty of a corrupt practice and is liable to a fine of not more than \$5,000, or to imprisonment for a term of not more than six months, or to both.

SECTION 2. The re-enacted section 134 extends the offence for improper voting by proxy to include the inducement or soliciting of proxies and the appointment of proxies for reward or remuneration.

3. This Act comes into force on the day it receives Royal Assent. Commence-
ment
4. The short title of this Act is *The Election Amendment Act*, Short title
1979.

An Act to amend
The Election Act

1st Reading

April 20th, 1979

2nd Reading

3rd Reading

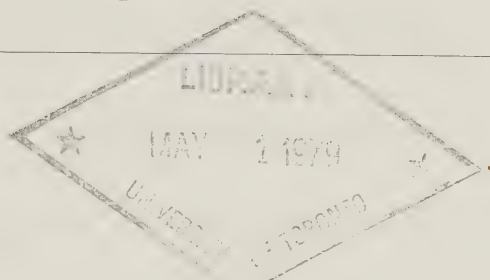
MR. LELUK

(Private Member's Bill)

3RD SESSION, 31ST LEGISLATURE, ONTARIO
28 ELIZABETH II, 1979
11

An Act to acquire the Assets of Inco Limited

MR. MARTEL



EXPLANATORY NOTE

The purpose of the Bill is to vest the title and control of the assets situate in Ontario of Inco Limited in a Crown corporation, The Ontario Nickel Corporation. If compensation cannot be agreed upon, provision is made for arbitration. The objects of The Ontario Nickel Corporation include the task of operating and maintaining the assets of Inco Limited so as to provide employment and other economic benefits to the Province of Ontario.

BILL 66

1979

An Act to acquire the Assets of Inco Limited

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act, "Corporation" means The Ontario Nickel Corporation. Interpretation

2.—(1) There is hereby established, on behalf of Her Majesty in right of Ontario, a corporation without share capital under the name of "The Ontario Nickel Corporation". The Ontario Nickel Corporation established

(2) There shall be a Board of Directors of the Corporation consisting of such members as may be appointed by the Lieutenant Governor in Council. Board of Directors

(3) The Lieutenant Governor in Council shall designate one of the directors as chairman of the Board. Chairman

(4) The Corporation shall have a seal which shall be adopted by resolution or by-law. Seal

3.—(1) The affairs of the Corporation are under the management and control of the Board of Directors. Management

(2) The chairman shall preside at all meetings of the Board and, in his absence, one of the directors present thereat who is chosen so to act by the directors present shall preside and has and may exercise the powers of the chairman. Chairman to preside

(3) A majority of the directors constitutes a quorum for the transaction of business at meetings of the Board. Quorum

(4) The Board may make by-laws regulating its proceedings and generally for the conduct and management of the affairs of the Corporation. By-laws

Powers
of
Board
R.S.O. 1970,
c. 89

4. The Board of Directors has such powers as are necessary for the purpose of carrying out its objects including the powers set out in sections 304 and 305 of *The Corporations Act* and section 24 of that Act, except clauses *m*, *p*, *q*, *r*, *s*, *t*, *u* and *v* of subsection 1, but otherwise *The Corporations Act* does not apply to the Corporation.

Objects

5. The objects of the Corporation are to,

- (a) take possession of the property, both real and personal, and the works and undertakings of Inco Limited and its subsidiaries situated in the Province of Ontario; and
- (b) create, develop and increase income, employment, and other economic benefits to the Province by operating and maintaining, or by encouraging and assisting in the establishment, expansion and continued operation and maintenance of the property, works and undertakings acquired and possessed under this Act,

Head office

6. The head office of the Corporation shall be in The Regional Municipality of Sudbury.

Assets of
Inco vest
in the
Corporation

7. All assets, including all real and personal property, works and undertakings, of Inco Limited and its subsidiaries situated in Ontario are hereby vested in The Ontario Nickel Corporation and the Corporation is hereby entitled to the possession, management and control of the said assets.

Notice of
arbitration

8.—(1) If agreement for compensation for the assets of Inco Limited vested in the Corporation by section 7 is not reached within thirty days from the date this Act comes into force, either party may serve notice of arbitration upon the other and upon the Land Compensation Board, as constituted under *The Expropriations Act*, stating that it requires that the compensation payable be determined by arbitration.

Idem

(2) The notice of arbitration referred to in subsection 1 shall be deemed to be a notice under clause *b* of section 26 of *The Expropriations Act* and, upon service of the notice, the practice and procedure under *The Expropriations Act* shall apply to the arbitration under this Act.

Application
of R.S.O.
1970, c. 154

9.—(1) Sections 29, 30, 31, 32, 33 and 34 of *The Expropriations Act* apply to the taking of the assets referred to in section 7 in the same manner as if they were land.

(2) Compensation for the assets referred to in section 7 ^{Idem} is to be determined in accordance with sections 13, 14, 16, 17, subsection 2 of section 19 and section 20 of *The Expropriations Act* in the same manner as if they were land. ^{R.S.O. 1970 c. 154}

(3) For the purposes of an arbitration under this Act, a reference to "expropriating authority" and to "statutory authority" in *The Expropriations Act* is a reference to the Corporation. ^{Interpretation}

10. The compensation payable as a result of this Act ^{Compensation} stands in place of the assets of Inco Limited vested in the Corporation under section 7 and any claim to or encumbrance on the assets is deemed to be a claim to or an encumbrance on the compensation payable and not a claim or encumbrance on the assets.

11. *The Bulk Sales Act* does not apply to the transfer of ^{R.S.O. 1970, c. 52} assets provided for in this Act. ^{does not apply}

12. The Corporation shall, after the close of each fiscal year, deliver to the Minister of Natural Resources an annual report upon the affairs of the Corporation, and the Minister shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session. ^{Annual report}

13. This Act comes into force on the day it receives Royal ^{Commence-} Assent. ^{ment}

14. The short title of this Act is *The Inco Limited Acquisition Act, 1979*. ^{Short title}

An Act to acquire the
Assets of Inco Limited

1st Reading

April 23rd, 1979

2nd Reading

3rd Reading

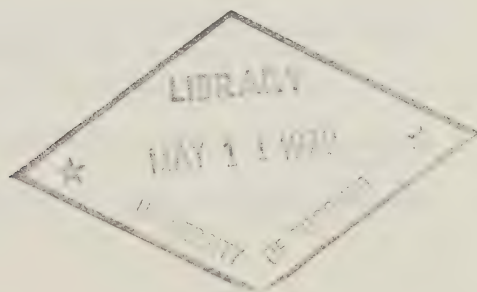
MR. MARTEL

(Private Member's Bill)

3RD SESSION, 31ST LEGISLATURE, ONTARIO
28 ELIZABETH II, 1979

An Act to amend
The Public Health Act

MR. GAUNT



EXPLANATORY NOTE

The purpose of the Bill is to prohibit the sale, in Ontario, of ionization smoke detectors that contain radio-active isotopes for the reason that these types of smoke detectors are a source of ionizing radiation that is dangerous to public health.

BILL 67

1979

An Act to amend The Public Health Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Public Health Act*, being chapter 377 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following section: s. 98a,
enacted

98a.—(1) In this section, “smoke detector” means a device designed to detect the presence of smoke in the atmosphere. Interpre-
tation

(2) No person shall sell, offer or expose for sale, an ionization smoke detector that contains radio-active isotopes. Prohibition

(3) Every person who knowingly contravenes subsection 2 and every director or officer of a corporation who knowingly concurs in such contravention is guilty of an offence and on summary conviction is liable to a fine of not more than \$2,000. Offence

(4) Where a corporation is convicted of an offence under subsection 3, the maximum penalty that may be imposed upon the corporation is \$5,000 and not as provided therein. Corporations

2. This Act comes into force on the day it receives Royal Assent. Commence-
ment

3. The short title of this Act is *The Public Health Amendment Act, 1979*. Short title

An Act to amend
The Public Health Act

1st Reading

April 24th, 1979

2nd Reading

3rd Reading

MR. GAUNT

(Private Member's Bill)

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B 56

BILL 68

Private Member's Bill

3RD SESSION, 31ST LEGISLATURE, ONTARIO
28 ELIZABETH II, 1979

**An Act to amend
The Local Roads Boards Act**

MR. WILDMAN



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTE

The purpose of the amendment is to authorize a local roads board to erect and maintain traffic signs in the local roads area that can be enforced under *The Highway Traffic Act*.

BILL 68

1979

An Act to amend The Local Roads Boards Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Local Roads Boards Act*, being chapter 256 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following section: s. 10a,
enacted

10a. Every board may erect and maintain any sign prescribed under *The Highway Traffic Act* and any sign erected by a board shall be deemed to be validly erected and in force for the purpose of any prosecution or other proceeding brought under that Act. Board may
erect traffic
signs
R.S.O. 1970,
c. 202

2. This Act comes into force on the day it receives Royal Assent. Commence-
ment
3. The short title of this Act is *The Local Roads Boards Amendment Act, 1979*. Short title

An Act to amend
The Local Roads Boards Act

1st Reading

April 24th, 1979

2nd Reading

3rd Reading

MR. WILDMAN

(Private Member's Bill)

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Government
Publications

BILL 69

Private Member's Bill

3RD SESSION, 31ST LEGISLATURE, ONTARIO
28 ELIZABETH II, 1979

**An Act to provide for the Disclosure of
Information relating to the Financial
Cost and Economic Impact of Government
Programs**

MR. VAN HORNE



EXPLANATORY NOTE

The purpose of this Bill is to provide for the public disclosure of the cost information upon which decisions to undertake certain government programs are based and the economic impact of these proposed government programs. The Bill requires that the estimated total cost of each program be disclosed and provides for additional scrutiny of program operations if the estimated total cost is exceeded.

BILL 69

1979

An Act to provide for the Disclosure of Information relating to the Financial Cost and Economic Impact of Government Programs

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) "Auditor" means the Provincial Auditor;
- (b) "program" means a program, project, work, undertaking or service, the implementation of which is considered and approved by the Executive Council;
- (c) "public money" has the same meaning as in *The Financial Administration Act*. R.S.O. 1970,
c. 166

2.—(1) Where the Executive Council approves the implementation of a program that is to be financed wholly or in part with public money from the Consolidated Revenue Fund, the Minister responsible for the program shall forthwith prepare and make publicly available a compendium of financial information in respect of the program. Compendium
of cost
information

(2) The compendium of financial information shall contain an assessment of the fiscal and economic impact of the program and a summary of the cost information upon which the decision to implement the program was based and, without limiting the generality of the foregoing, the compendium shall contain the following. Contents of
compendium

- (a) a statement of the purposes and objectives of the program;
- (b) the estimated total cost of the program;

- (c) a description of the methods of cost measurement;
- (d) a description of the anticipated impact of the program on price levels, employment conditions, tax revenues and capital investment;
- (e) an evaluation of whether the program is likely to reduce the incentive to work;
- (f) an evaluation of whether the program is likely to encourage or discourage the formation of new business.

Cost
excess
statement

3.—(1) Where the Minister responsible for a program is informed that the cost of the program will exceed or has exceeded the estimated total cost of the program as stated in the compendium of financial information, the Minister shall inquire into the reasons for the increased cost and shall prepare and make publicly available a cost excess statement setting forth the reasons for the cost increase, the amount of excess cost incurred, if any, at the time the statement was prepared, and the revised estimated total cost of the program.

Supple-
mentary
cost excess
statement

(2) Where the Minister is informed that the cost of a program will exceed or has exceeded the revised estimated total cost of the program, the Minister shall forthwith make an inquiry into the reasons therefor and prepare and make available a supplementary cost excess statement setting forth the reasons for the additional cost increase, the amount of excess cost incurred, and the revised estimated total cost of the program.

Auditor's
investigation

4. Where a cost excess statement or supplementary cost excess statement is required under this Act, the Auditor shall make an inquiry for the purpose of,

- (a) determining the adequacy of the cost analysis, cost forecasting and cost control methods used in the planning and administration of the program; and
- (b) recommending improvements in these methods to assure more efficient and effective program management,

and the Auditor shall report the findings and recommendations arising from such an inquiry to the Minister responsible for the administration of the program and to the standing Public Accounts Committee of the Assembly.

5.—(1) For the purposes of this Act, a compendium or statement shall be deemed to have been made publicly available when, When compendium, etc., made publicly available

- (a) the compendium or statement has been laid before the Assembly;
- (b) a copy of the compendium or statement has been filed with the Office of the Auditor;
- (c) a copy of the compendium or statement has been provided to each member of the standing Public Accounts Committee of the Assembly; and
- (d) a copy of the compendium or statement is made available for public inspection and reproduction during normal office hours at the central office of the Ministry responsible for administering the program.

(2) If a compendium of financial information, cost excess statement or supplementary cost excess statement is prepared and the Assembly is not in session, copies of the compendium or statement shall be made available pursuant to subsection 1 notwithstanding the Assembly is not in session and such compendium or statement shall be laid before the Assembly at the commencement of the next ensuing session. Idem

6. This Act comes into force on the day it receives Royal Assent. Commencement

7. The short title of this Act is *The Program Cost Disclosure Act, 1979*. Short title

An Act to provide for the Disclosure of
Information relating to the Financial Cost
and Economic Impact of Government
Programs

1st Reading

April 24th, 1979

2nd Reading

3rd Reading

MR. VAN HORNE

(Private Member's Bill)

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Government
Publications

BILL 70

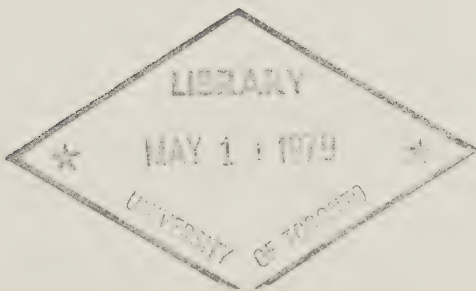
Private Member's Bill

3RD SESSION, 31ST LEGISLATURE, ^{ONTARIO}
28 ELIZABETH II, 1979

Legislative Assembly
11

An Act to amend The Education Act, 1974

MR. STONG



EXPLANATORY NOTE

This Bill defines "compulsory school age" and guarantees every child of compulsory school age a right to an education.

BILL 70

1979

An Act to amend The Education Act, 1974

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 1 of section 1 of *The Education Act, 1974*, being chapter 109, as amended by the Statutes of Ontario, 1976, chapter 50, section 1, and 1978, chapter 44, sections 1 and 25, is further amended by adding thereto the following paragraph: s. 1 (1),
amended

6a. "compulsory school age" includes every child who attains the age of six years on or before the first school day in September in any year and continues until he attains the age of sixteen years.

2. The said Act is amended by adding thereto the following section: s. 19a,
enacted

19a. Every child of compulsory school age has a right to an education. Right to
an
education

3. This Act comes into force on the day it receives Royal Assent. Commence-
ment
4. The short title of this Act is *The Education Amendment Act, 1979*. Short title

An Act to amend
The Education Act, 1974

1st Reading

April 26th, 1979

2nd Reading

3rd Reading

MR. STONG

(Private Member's Bill)

BILL 71

Government Bill

3RD SESSION, 31ST LEGISLATURE, **ONTARIO**
28 ELIZABETH II, 1979

An Act to amend The Ontario Heritage Act, 1974

THE HON. R. BAETZ
Minister of Culture and Recreation



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTES

SECTION 1. Subsection 4 of section 22 is enacted to ensure that the provision of any easement agreement or covenant that is held by the Ontario Heritage Foundation with respect to a heritage building will prevail over the alteration and demolition provisions of Part IV of the Act where the building has also been designated by the council of a municipality pursuant to the provisions of Part IV of the Act.

SECTION 2.—Subsection 1. Subsection 1 of section 37 is enacted to authorize municipalities to enter into easement agreements for the conservation of buildings of historic or architectural value or interest.

Subsection 2. The proposed amendment will permit a council of a municipality to enter into an easement agreement with a property owner to conserve a building's historic or architectural elements without the necessity of designating the property to be of historic or architectural value or interest under Part IV of the Act.

Subsections 3 and 4. The proposed amendments are complementary to the changes made in subsection 1 of section 2 of the Bill.

BILL 71

1979

An Act to amend The Ontario Heritage Act, 1974

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 22 of *The Ontario Heritage Act, 1974*, being chapter 122, ^{s. 22, amended} is amended by adding thereto the following subsection:

(4) Where there is a conflict between the provisions of an easement or covenant entered into by the Foundation and any provision of section 33 or 34, the provisions of the easement or covenant shall prevail. ^{Conflict}

- 2.—(1) Section 37 of the said Act is amended by renumbering ^{s. 37, amended} subsections 1, 2 and 3 as subsections 2, 3 and 4 and by adding thereto the following subsection:

(1) Notwithstanding the provisions of subsection 1 of ^{Easements} section 36, the council of a municipality after consultation with its local advisory committee, where one is established, may pass by-laws providing for the entering into of easements or covenants with owners of real property, or interests therein, for the conservation of buildings of historic or architectural value or interest.

- (2) Subsection 2 of the said section 37, as renumbered, is ^{s. 37 (2), amended} amended by striking out “where the property is designated under this Part” in the third and fourth lines.

- (3) Subsection 3 of the said section 37, as renumbered, is ^{s. 37 (3), amended} amended by striking out “subsection 1” in the second line and inserting in lieu thereof “subsection 2”.

- (4) Subsection 4 of the said section 37, as renumbered, is ^{s. 37 (4), amended} amended by striking out “subsection 1” in the second line and inserting in lieu thereof “subsection 2”.

- (5) The said section 37 is further amended by adding thereto ^{s. 37, amended} the following subsection:

Conflict

(5) Where there is a conflict between the provisions of an easement or covenant entered into by a council of a municipality under subsection 1 and any provision of section 33 or 34, the provisions of the easement or covenant shall prevail.

Commence-
ment

3. This Act comes into force on the day it receives Royal Assent

Short title

4. The short title of this Act is *The Ontario Heritage Amendment Act, 1979*.

Subsection 5. Subsection 5 of section 37 is enacted to ensure that the provisions of any easement agreement or covenant that is held by a municipality with respect to a heritage building will prevail over the alteration and demolition provisions of Part IV of the Act where the building has also been designated by the council of the municipality pursuant to the provisions of Part IV of the Act.

An Act to amend
The Ontario Heritage Act, 1974

1st Reading

April 26th, 1979

2nd Reading

3rd Reading

THE HON. R. BAETZ
Minister of Culture and Recreation

(Government Bill)

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BILL 71

3RD SESSION, 31ST LEGISLATURE, ONTARIO
28 ELIZABETH II, 1979

An Act to amend The Ontario Heritage Act, 1974

THE HON. R. BAETZ
Minister of Culture and Recreation



TORONTO

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BILL 71

1979

An Act to amend The Ontario Heritage Act, 1974

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 22 of *The Ontario Heritage Act, 1974*, being chapter 122, ^{s. 22, amended} is amended by adding thereto the following subsection:

(4) Where there is a conflict between the provisions of an easement or covenant entered into by the Foundation and any provision of section 33 or 34, the provisions of the easement or covenant shall prevail. ^{Conflict}

- 2.—(1) Section 37 of the said Act is amended by renumbering subsections 1, 2 and 3 as subsections 2, 3 and 4 and by adding thereto the following subsection: ^{s. 37, amended}

(1) Notwithstanding the provisions of subsection 1 of section 36, the council of a municipality after consultation with its local advisory committee, where one is established, may pass by-laws providing for the entering into of easements or covenants with owners of real property, or interests therein, for the conservation of buildings of historic or architectural value or interest. ^{Easements}

- (2) Subsection 2 of the said section 37, as renumbered, is amended by striking out “where the property is designated under this Part” in the third and fourth lines. ^{s. 37 (2), amended}
- (3) Subsection 3 of the said section 37, as renumbered, is amended by striking out “subsection 1” in the second line and inserting in lieu thereof “subsection 2”. ^{s. 37 (3), amended}
- (4) Subsection 4 of the said section 37, as renumbered, is amended by striking out “subsection 1” in the second line and inserting in lieu thereof “subsection 2”. ^{s. 37 (4), amended}
- (5) The said section 37 is further amended by adding thereto the following subsection: ^{s. 37, amended}

Conflict

(5) Where there is a conflict between the provisions of an easement or covenant entered into by a council of a municipality under subsection 1 and any provision of section 33 or 34, the provisions of the easement or covenant shall prevail.

Commence-
ment

3. This Act comes into force on the day it receives Royal Assent.

Short title

4. The short title of this Act is *The Ontario Heritage Amendment Act, 1979*.

An Act to amend
The Ontario Heritage Act, 1974

1st Reading

April 26th, 1979

2nd Reading

May 31st, 1979

3rd Reading

May 31st, 1979

THE HON. R. BAETZ
Minister of Culture and Recreation

B
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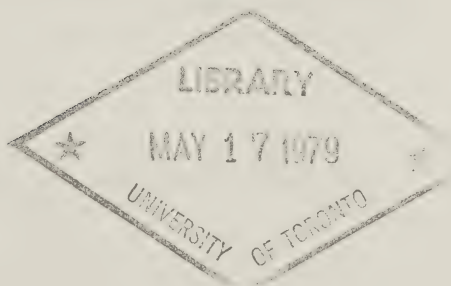
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BILL 72

Government
Publications
Government Bill

3RD SESSION, 31ST LEGISLATURE, ONTARIO,
28 ELIZABETH II, 1979

An Act to amend The Theatres Act

THE HON. FRANK DREA
Minister of Consumer and Commercial Relations



EXPLANATORY NOTES

Except for section 1, the effect of the amendments is to remove from the legislation the expiry date of the 31st day of March for various licences under the Act and to give authority to deal with expiry dates of licences by regulation.

SECTION 1. The definition of “projector” is being removed because the word is already defined in conjunction with the definition of “projection equipment”.

SECTION 2. Section 13 of the Act provides that theatre licences expire on the 31st day of March in each year unless renewed.

SECTION 3. Section 31 of the Act provides that projectionist licences expire on the 31st day of March in each year unless renewed.

SECTION 4. Section 44 of the Act provides that film exchange licences expire on the 31st day of March in each year unless renewed.

SECTION 5. The effect of subsection 3 of section 55 of the Act is to cause the licences of projectionists operating projectors using 16 millimetre film to expire on the 31st day of March in each year.

SECTION 6. Subsection 1 of section 60 provides that the Lieutenant Governor in Council may make regulations in respect of the matters specified therein.

The three paragraphs being re-enacted are recast to provide that regulations may be made in respect of the expiry of theatre, film exchange and projectionist licences.

BILL 72

1979

An Act to amend The Theatres Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause *k* of section 1 of *The Theatres Act*, being chapter 459 of the Revised Statutes of Ontario, 1970, is repealed. s. 1 (*k*),
repealed
2. Section 13 of the said Act is repealed. s. 13,
repealed
3. Section 31 of the said Act, as re-enacted by the Statutes of Ontario, 1971, chapter 50, section 82, is repealed. s. 31,
repealed
4. Section 44 of the said Act is repealed. s. 44,
repealed
5. Subsection 3 of section 55 of the said Act is repealed. s. 55 (3),
repealed
6. Paragraphs 19, 21 and 26 of subsection 1 of section 60 of the said Act are repealed and the following substituted therefor: s. 60 (1)
pars. 19, 21, 26,
re-enacted
 19. providing for the issue, expiry, renewal and transfer of theatre licences or film exchange licences or any class thereof and prescribing the fees therefor;
 -
 21. providing for the issue, expiry and renewal of projectionist licences or any class thereof and prescribing the fees therefor;
 -
 26. providing for the issue, expiry and renewal of licences to operate projectors designed for the use of film 16 millimetres in width and prescribing the fees therefor.

Commence-
ment

7. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

8. The short title of this Act is *The Theatres Amendment Act, 1979*.

An Act to amend
The Theatres Act

1st Reading

May 3rd, 1979

2nd Reading

3rd Reading

THE HON. FRANK DREA
Minister of Consumer and
Commercial Relations

(Government Bill)

B
-B56
3
BILL 72

3RD SESSION, 31ST LEGISLATURE, ONTARIO
28 ELIZABETH II, 1979

An Act to amend The Theatres Act

THE HON. FRANK DREA
Minister of Consumer and Commercial Relations



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

BILL 72

1979

An Act to amend The Theatres Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause *k* of section 1 of *The Theatres Act*, being chapter 459 of the Revised Statutes of Ontario, 1970, is repealed. s. 1 (*k*),
repealed

2. Section 13 of the said Act is repealed. s. 13,
repealed

3. Section 31 of the said Act, as re-enacted by the Statutes of Ontario, 1971, chapter 50, section 82, is repealed. s. 31,
repealed

4. Section 44 of the said Act is repealed. s. 44,
repealed

5. Subsection 3 of section 55 of the said Act is repealed. s. 55 (3),
repealed

6. Paragraphs 19, 21 and 26 of subsection 1 of section 60 of the said Act are repealed and the following substituted therefor: s. 60 (1)
pars. 19, 21, 26,
re-enacted
 19. providing for the issue, expiry, renewal and transfer of theatre licences or film exchange licences or any class thereof and prescribing the fees therefor;

 -

 21. providing for the issue, expiry and renewal of projectionist licences or any class thereof and prescribing the fees therefor;

 -

 26. providing for the issue, expiry and renewal of licences to operate projectors designed for the use of film 16 millimetres in width and prescribing the fees therefor.

Commence-
ment

7. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

8. The short title of this Act is *The Theatres Amendment Act, 1979*.

An Act to amend
The Theatres Act

1st Reading

May 3rd, 1979

2nd Reading

May 17th, 1979

3rd Reading

May 17th, 1979

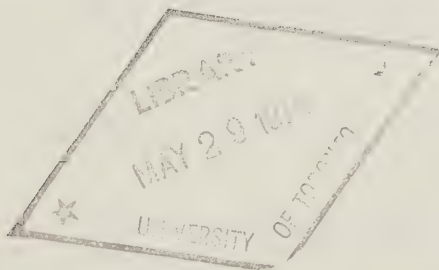
THE HON. FRANK DREA
Minister of Consumer and
Commercial Relations

B 56
BILL 73

3RD SESSION, 31ST LEGISLATURE, ⁴ONTARIO
28 ELIZABETH II, 1979 ✓ *Legislation Amendment*

An Act to amend
The Prearranged Funeral Services Act

THE HON. FRANK DREA
Minister of Consumer and Commercial Relations



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

BILL 73

1979

An Act to amend The Prearranged Funeral Services Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Sections 1 and 2 of *The Prearranged Funeral Services Act*, being chapter 358 of the Revised Statutes of Ontario, 1970, are repealed and the following substituted therefor:

1. In this Act, "funeral services" means the services usually provided by a funeral director licensed under *The Funeral Services Act, 1976* and the provision of funeral supplies and services to the public other than a cemetery plot.

Interpre-
tation
1976, c. 83

2. Unless he is an insurer licensed under *The Insurance Act*, or a person licensed as a funeral director under *The Funeral Services Act, 1976* and engaged in directing the operation of a funeral services establishment, no person shall agree or offer to agree, for a consideration that is fixed by the agreement, to furnish or make provision for funeral services upon the death of a person who is alive at the time the agreement or offer is made.

Agreements
for
prearranged
funeral
services
R.S.O. 1970,
c. 224

2. Section 4 of the said Act is repealed and the following substituted therefor:

4.—(1) Every person who receives money under an agreement referred to in section 2 shall receive and hold such money together with any interest accrued thereon in trust until the agreement has been fully performed by him or the agreement has been cancelled.

Money in
trust

(2) Where an agreement referred to in subsection 1 is cancelled, the person holding money in trust under that agreement shall forthwith pay such money to the person entitled thereto.

Idem

s. 5 (2),
re-enacted

- 3.** Subsection 2 of section 5 of the said Act is repealed and the following substituted therefor:

Inspection
and misuse
of trust
money

(2) The Board of Funeral Services established under *The Funeral Services Act, 1976* shall cause the trust accounts to be inspected as required by the regulations, and any misuse of trust funds shall be deemed to be sufficient grounds for cancellation of a licence under *The Funeral Services Act, 1976*.

1976, c. 83

Commence-
ment

- 4.** This Act comes into force on the day it receives Royal Assent.

Short title

- 5.** The short title of this Act is *The Prearranged Funeral Services Amendment Act, 1979*.

An Act to amend
The Prearranged Funeral Services Act

1st Reading

May 3rd, 1979

2nd Reading

May 17th, 1979

3rd Reading

May 17th, 1979

THE HON. FRANK DREA
Minister of Consumer and
Commercial Relations

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17 **BILL 73**

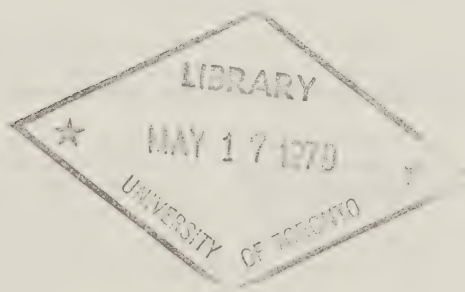
Government Bill

3RD SESSION, 31ST LEGISLATURE, ONTARIO
28 ELIZABETH II, 1979

Legislative Council

**An Act to amend
The Prearranged Funeral Services Act**

THE HON. FRANK DREA
Minister of Consumer and Commercial Relations



EXPLANATORY NOTES

In 1976, *The Funeral Services Act, 1976* replaced *The Embalmers and Funeral Directors Act*. *The Prearranged Funeral Services Act* is now being amended to delete the references to *The Embalmers and Funeral Directors Act* and replace them with appropriate references to *The Funeral Services Act, 1976*.

SECTION 1. Section 1 of the Act is recast to make the definition of funeral services consistent with *The Funeral Services Act, 1976*.

Section 2 of the Act is recast to make reference to *The Funeral Services Act, 1976*. There is a further change to the effect that a funeral director offering prearranged services must be a full-time director.

SECTION 2. At present a person holding money under a prearranged services agreement must hold the money in trust. The provision as recast provides that interest accruing on that money is also trust funds.

There is further provision made whereby a person holding trust funds must immediately pay them to the person entitled in the event of an agreement being cancelled.

BILL 73

1979

An Act to amend The Prearranged Funeral Services Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Sections 1 and 2 of *The Prearranged Funeral Services Act*,
being chapter 358 of the Revised Statutes of Ontario, 1970,
are repealed and the following substituted therefor:

1. In this Act, "funeral services" means the services usually provided by a funeral director licensed under *The Funeral Services Act, 1976* and the provision of funeral supplies and services to the public other than a cemetery plot.

Interpre-
tation
1976, c. 83

2. Unless he is an insurer licensed under *The Insurance Act*, or a person licensed as a funeral director under *The Funeral Services Act, 1976* and engaged in directing the operation of a funeral services establishment, no person shall agree or offer to agree, for a consideration that is fixed by the agreement, to furnish or make provision for funeral services upon the death of a person who is alive at the time the agreement or offer is made.

Agreements
for
prearranged
funeral
services
R.S.O. 1970,
c. 224

2. Section 4 of the said Act is repealed and the following substituted therefor:

s. 4,
re-enacted

4.—(1) Every person who receives money under an agreement referred to in section 2 shall receive and hold such money together with any interest accrued thereon in trust until the agreement has been fully performed by him or the agreement has been cancelled.

Money in
trust

(2) Where an agreement referred to in subsection 1 is cancelled, the person holding money in trust under that agreement shall forthwith pay such money to the person entitled thereto.

Idem

s. 5 (2).
re-enacted

- 3.** Subsection 2 of section 5 of the said Act is repealed and the following substituted therefor:

Inspection
and misuse
of trust
money

(2) The Board of Funeral Services established under *The Funeral Services Act, 1976* shall cause the trust accounts to be inspected as required by the regulations, and any misuse of trust funds shall be deemed to be sufficient grounds for cancellation of a licence under *The Funeral Services Act, 1976*.

1976, c. 83

Commence-
ment

- 4.** This Act comes into force on the day it receives Royal Assent.

Short title

- 5.** The short title of this Act is *The Prearranged Funeral Services Amendment Act, 1979*.

SECTION 3. The subsection as recast refers to the Board of Funeral Services established under *The Funeral Services Act, 1976* instead of referring to the Board of Administration which ceased to exist with the repeal of *The Embalmers and Funeral Directors Act*.

An Act to amend
The Prearranged Funeral Services Act

1st Reading

May 3rd, 1979

2nd Reading

3rd Reading

THE HON. FRANK DREA
Minister of Consumer and
Commercial Relations

(Government Bill)

BILL 74

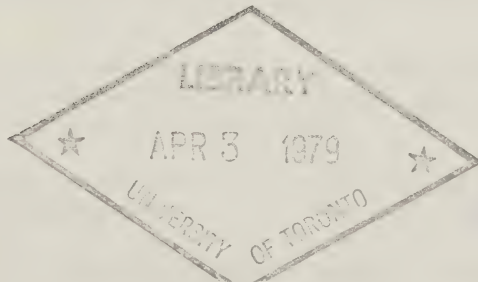
Government Bill

3RD SESSION, 31ST LEGISLATURE, ONTARIO
28 ELIZABETH II, 1979

**An Act to establish a Code of Procedure for
Provincial Offences**

THE HON. R. MCMURTRY
Attorney General and Solicitor General

(Reprinted as amended by the Administration of Justice Committee)



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTE

The Bill provides a complete code of procedure for the prosecution of provincial offences in place of the provisions of the *Criminal Code* (Canada) adopted by the present Summary Convictions Act.

The principal changes include,

1. provision of procedures for the prosecution of provincial offences in a provincial code of procedure without reference to the *Criminal Code* (Canada)
2. provision of procedures for minor offences more appropriate to their nature and more expedient for the defendant than those for more serious criminal offences
3. provision for more alternatives in the payment and collection of fines
4. restriction on resorting to imprisonment both in sentencing and for default in payment of fines.

BILL 74

1979

An Act to establish a Code of Procedure for Provincial Offences

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

INTERPRETATION

1.—(1) In this Act,

Interpre-
tation

- (a) "certificate" means a certificate of offence issued under Part I or a certificate of parking infraction issued under Part II;
- (b) "court" means a provincial offences court or, where jurisdiction in respect of the offence is conferred upon a provincial court (family division) by any other Act, the provincial court (family division);
- (c) "judge" means a provincial judge;
- (d) "justice" means a provincial judge or a justice of the peace;
- (e) "offence" means an offence under an Act of the Legislature or under a regulation or by-law made under the authority of an Act of the Legislature;
- (f) "police officer" means a chief of police or other police officer or constable but does not include a special constable or by-law enforcement officer;
- (g) "prescribed" means prescribed by the rules of the provincial offences courts;
- (h) "prosecutor" means the Attorney General or, where the Attorney General does not intervene, means the person who issues a certificate or lays an in-

formation and includes counsel or agent acting on behalf of either of them;

(i) "provincial offences officer" means a police officer or a person designated under subsection 2;

(j) "set fine" means the amount of fine set by the court for an offence for the purpose of proceedings commenced under Part I or II.

Designation
of pro-
vincial
offences
officers

(2) A minister of the Crown may designate in writing any person or class of persons as a provincial offences officer for the purposes of all or any class of offences.

Purpose of
Act

R.S.C. 1970,
c. C-34

2.—(1) The purpose of this Act is to replace the summary conviction procedure for the prosecution of provincial offences, including the provisions adopted by reference to the *Criminal Code* (Canada), with a new procedure that reflects the distinction between provincial offences and criminal offences.

Interpre-
tation

(2) Where, as an aid to the interpretation of provisions of this Act, recourse is had to the judicial interpretation of and practices under corresponding provisions of the *Criminal Code* (Canada), any variation in wording without change in substance shall not, in itself, be construed to intend a change of meaning.

PART I

COMMENCEMENT OF PROCEEDINGS BY CERTIFICATE OF OFFENCE

Certificate
of offence

3.—(1) In addition to the procedure set out in Part III for commencing a proceeding by laying an information, a proceeding in respect of an offence may be commenced by filing a certificate of offence alleging the offence in the office of the court named therein.

Issuance
and service

(2) A provincial offences officer who believes that one or more persons have committed an offence may issue, by completing and signing, a certificate of offence certifying that an offence has been committed and,

(a) an offence notice indicating the set fine for the offence;
or

(b) a summons,

in the form prescribed under section 13.

(3) The offence notice or summons shall be served personally upon the person charged within thirty days after the alleged offence occurred. Service

(4) Upon the service of an offence notice or summons, the person charged shall be requested to sign the certificate of offence, but the failure or refusal to sign as requested does not invalidate the certificate of offence or the service of the offence notice or summons. Signature

(5) Where service is made by the provincial offences officer who issued the certificate of offence, he shall certify on the certificate of offence that he personally served the offence notice or summons on the person charged and the date of service. Certificate of service

(6) Where service is made by a person other than the provincial offences officer who issued the certificate of offence, he shall complete an affidavit of service in the prescribed form. Affidavit of service

(7) A certificate of service of an offence notice or summons purporting to be signed by the provincial offences officer issuing it or an affidavit of service under subsection 6 shall be received in evidence and is proof of personal service in the absence of evidence to the contrary. Certificate as evidence

(8) The provincial offences officer who serves an offence notice or summons under this section shall not receive payment of any money in respect of a fine, or receive the offence notice for delivery to the court. Officer not to act as agent

4. A certificate of offence shall be filed in the office of the court named therein as soon as is practicable after service of the offence notice or summons. Filing of certificate of offence

5.—(1) Where an offence notice is served on a defendant, he may plead not guilty by signing the not guilty plea on the offence notice and indicate his desire in the form prescribed on the notice to appear or be represented at a trial and deliver the offence notice to the office of the court specified in the notice. Dispute with trial

(2) Where an offence notice is received under subsection 1, the clerk of the court shall, as soon as is practicable, give notice to the defendant and prosecutor of the time and place of the trial. Notice of trial

6.—(1) Where an offence notice is served on a defendant and he wishes to dispute the charge but does not wish to attend or be represented at a trial, he may sign the not guilty plea on the offence notice and deliver the offence Dispute without appearance

notice to the office of the court specified in the notice together with any written explanation or submission he wishes to make.

Disposition (2) Where an offence notice is delivered under subsection 1, a justice may, in the absence of the defendant, and after considering the explanation and submissions of the defendant, direct a hearing or, where no reasonable ground of defence is disclosed in the explanation or submission, convict the defendant and impose the set fine.

Hearing (3) Where the justice directs a hearing under subsection 2, the court shall hold the hearing and may, in the absence of the defendant and after considering the explanation and submissions of the defendant, acquit the defendant or convict the defendant and impose the set fine or such lesser fine as is permitted by law.

Plea of guilty with representations 7.—(1) Where an offence notice is served on a defendant and he does not wish to dispute the charge but wishes to make submissions as to penalty, including the extension of time for payment, he may attend at the time and place specified in the notice and may appear before a justice sitting in court for the purpose of pleading guilty to the offence and making submissions as to penalty, and the justice may enter a conviction and impose the set fine or such lesser fine as is permitted by law.

Submissions under oath (2) The justice may require submissions under subsection 1 to be made under oath, orally or by affidavit.

Payment out of court 8.—(1) Where an offence notice is served on a defendant and he does not wish to dispute the charge, he may sign the plea of guilty on the offence notice and deliver the offence notice and amount of the set fine to the office of the court specified in the notice.

Conviction (2) Acceptance by the court office of payment under subsection 1 constitutes a plea of guilty whether or not the plea is signed and endorsement of payment on the certificate of offence constitutes the conviction and imposition of a fine in the amount of the set fine for the offence.

Failure to respond to offence notice 9. Where at least fifteen days have elapsed after the defendant was served with the offence notice and the offence notice has not been delivered in accordance with section 6 or 8 and a plea of guilty has not been accepted under section 7, the defendant shall be deemed to not wish to dispute the charge and a justice shall examine the certificate of offence and,

- (a) where the certificate of offence is complete and regular on its face, he shall enter a conviction in the defendant's absence and without a hearing and impose the set fine for the offence; or
- (b) where the certificate of offence is not complete and regular on its face, he shall quash the proceeding.

10. A signature affixed to the form of plea of guilty or not guilty on an offence notice, purporting to be that of the defendant, is *prima facie* proof that it is the signature of that person.

Signature
on plea

11.—(1) Where the defendant has not had an opportunity to dispute the charge or to appear or be represented at a hearing for the reason that through no fault of his own the delivery of a necessary notice or document failed to occur in fact, and where not more than fifteen days have elapsed since the conviction first came to the attention of the defendant, the defendant may attend at the court office during regular office hours and may appear before a justice and the justice, upon being satisfied by affidavit in the prescribed form of such facts, shall strike out the conviction, if any, and give the person appearing a notice of trial under section 5 or proceed under section 7.

Reopening
on failure
of notice

(2) Where a conviction is struck out under subsection 1, the justice shall give the defendant a certificate of the fact in the prescribed form.

Certificate
of striking
out
conviction

12.—(1) Where the penalty prescribed for an offence includes a fine of more than \$300 or imprisonment and proceedings are taken under this Part, the provision for fine or imprisonment does not apply and in lieu thereof the offence is punishable by a fine of not more than the maximum fine prescribed for the offence or \$300, whichever is the lesser.

Penalty

(2) Where a person is convicted of an offence in a proceeding initiated by an offence notice,

Other
consequences
of conviction

- (a) a provision in or under any other Act that provides for an action or result following upon a conviction of an offence does not apply to the conviction, except,

- (i) for the purpose of carrying out the sentence imposed,

(ii) for the purpose of recording and proving the conviction,

R.S.O. 1970,
c. 202

(iii) for the purposes of the demerit point system under *The Highway Traffic Act*, and

(iv) for the purposes of section 27 of *The Highway Traffic Act*; and

(b) any thing seized in connection with the offence after the service of the offence notice is not liable to forfeiture.

Regulations

13.—(1) The Lieutenant Governor in Council may make regulations,

(a) prescribing the form of certificates of offence, offence notices and summonses and such other forms as are considered necessary under this Part;

(b) authorizing the use in a form prescribed under clause *a* of any word or expression to designate an offence;

(c) respecting any matter that is considered necessary to provide for the use of the forms under this Part.

Sufficiency
of
abbreviated
wording

(2) The use on a form prescribed under clause *a* of subsection 1 of any word or expression authorized by the regulations to designate an offence is sufficient for all purposes to describe the offence designated by such word or expression.

Idem

(3) Where the regulations do not authorize the use of a word or expression to describe an offence in a form prescribed under clause *a* of subsection 1, the offence may be described in accordance with section 26.

PART II

COMMENCEMENT OF PROCEEDINGS FOR PARKING INFRACTIONS

Interpre-
tation

14. In this Part, "parking infraction" means any unlawful parking, standing or stopping of a vehicle that constitutes an offence.

Date
applicable
to infractions
under
municipal
by-laws

15.—(1) Subject to subsection 2, this Part does not apply in respect of parking infractions under by-laws of municipalities until a date two years after this Part comes into force.

(2) Subject to the approval of the Lieutenant Governor in Council, the council of a municipality, including a regional, district or metropolitan municipality, may by by-law declare that this Part applies in respect of parking infractions under by-laws in the municipality on a date earlier than the date determined under subsection 1.

Idem

16.—(1) In addition to the procedure set out in Part III for commencing a proceeding by laying an information, a proceeding in respect of a parking infraction may be commenced by filing a certificate of the parking infraction in the office of the court named therein, within thirty days after the alleged offence occurred.

Certificate of parking infraction and notice

(2) A provincial offences officer who believes from his personal knowledge that one or more persons have committed a parking infraction may issue, by completing and signing,

Issuance and notice

(a) a certificate of parking infraction certifying that a parking infraction has been committed; and

(b) a parking infraction notice indicating the set fine for the infraction,

in the form prescribed under section 21.

(3) The issuing provincial offences officer may serve the parking infraction notice on the owner of the vehicle identified therein by affixing it to the vehicle in a conspicuous place at the time of the alleged infraction, or delivering it personally to the person having care and control of the vehicle at the time of the alleged infraction.

Service of notice on owner

17.—(1) Where a parking infraction notice is served, the defendant may plead not guilty by signing the not guilty plea on the notice and indicate his desire in the form prescribed on the notice to appear or be represented at a trial and deliver it to the place specified in the notice.

Dispute with trial

(2) Where a parking infraction notice is received under subsection 1, the clerk of the court shall, as soon as is practicable, give notice to the defendant and prosecutor of the time and place of the trial.

Notice of trial

18. Where the defendant does not wish to dispute the charge, he may deliver the notice and amount of the set fine to the place shown on the notice.

Payment out of court

19.—(1) Where at least fifteen days have elapsed after the defendant was served with the parking infraction notice and the parking infraction notice has not been delivered in

Failure to respond to parking infraction notice

accordance with subsection 1 of section 17, the defendant shall be deemed to not wish to dispute the charge and a justice shall examine the certificate of parking infraction and where the justice is satisfied,


(a) that the certificate of parking infraction is complete and regular on its face;

(b) where the defendant is liable as owner, that he is the owner; and

(c) that payment has not been made under section 18,

the justice shall enter a conviction in the defendant's absence and without a hearing and impose the set fine for the offence.

Quashing
proceeding

(2) Where the justice is not able to enter a conviction under subsection 1, he shall quash the proceeding. 

Notice of
fine

(3) The clerk of the court shall give notice to the person against whom a conviction is entered under subsection 1 of the date and place of the infraction, the date of the conviction and the amount of the fine, and the fine or any part of the fine not paid within fifteen days after the giving of the notice shall be deemed to be in default.

Reopening
on failure
of notice

20. Where the defendant has not had an opportunity to dispute the charge or appear or be represented at a hearing for the reason that, through no fault of his own, the delivery of a necessary notice or document failed to occur in fact, and where not more than fifteen days have elapsed since the conviction first came to the attention of the defendant, the defendant may attend at the court office during regular office hours and may appear before a justice and the justice, upon being satisfied by affidavit in the prescribed form of such facts, shall strike out the conviction, if any, and give the person appearing a notice of trial under subsection 2 of section 17 or accept a plea of guilty under section 18.

Regula-
tions

21.—(1) The Lieutenant Governor in Council may make regulations,

(a) prescribing the form of certificates of parking infractions and parking infraction notices and such other forms as are considered necessary under this Part;

(b) authorizing the use in a form prescribed under clause a of any word or expression to designate a parking infraction;

- (c) respecting any matter that is considered necessary to provide for the use of the forms under this Part.

(2) The use on a form prescribed under clause *a* of subsection 1 of any word or expression authorized by the regulations to designate a parking infraction is sufficient for all purposes to describe the infraction designated by such word or expression. Sufficiency
of
abbrevia-
tions

(3) Where the regulations do not authorize the use of a word or expression to describe a parking infraction in a form prescribed under clause *a* of subsection 1, the offence may be described in accordance with section 26. Idem

PART III

COMMENCEMENT OF PROCEEDING BY INFORMATION

22.—(1) In addition to the procedure set out in Parts I and II for commencing a proceeding by the filing of a certificate, a proceeding in respect of an offence may be commenced by laying an information. Commence-
ment of
proceeding
by
information

(2) Where a summons or offence notice has been served under Part I, no proceeding shall be commenced under subsection 1 in respect of the same offence except with the consent of the Attorney General or his agent. Exception

23. Where a provincial offences officer believes, on reasonable and probable grounds, that an offence has been committed by a person whom he finds at or near the place where the offence was committed, he may, before laying an information, serve the person with a summons in the prescribed form. Summons
before
information
laid

24.—(1) Any person who, on reasonable and probable grounds, believes that one or more persons have committed an offence, may lay an information in the prescribed form and under oath before a justice alleging the offence and the justice shall receive the information. Information

(2) An information may be laid anywhere in Ontario. Idem

25.—(1) A justice who receives an information laid under section 24 shall consider the information and, where he considers it desirable to do so, hear and consider *ex parte* the allegations of the informant and the evidence of witnesses and, Procedure
on laying
of
information

- (a) where he considers that a case for so doing is made out,

- (i) confirm the summons served under section 23, if any,
 - (ii) issue a summons in the prescribed form, or
 - (iii) where the arrest is authorized by statute and where the allegations of the informant or the evidence satisfy the justice on reasonable and probable grounds that it is necessary in the public interest to do so, issue a warrant for the arrest of the defendant; or
- (b) where he considers that a case for issuing process is not made out,
- (i) so endorse the information, and
 - (ii) where a summons was served under section 23, cancel it and cause the defendant to be so notified.

Summons or
warrants
in blank

- (2) A justice shall not sign a summons or warrant in blank.

Counts

- 26.**—(1) Each offence charged in an information shall be set out in a separate count.

Allegation
of
offence

- (2) Each count in an information shall in general apply to a single transaction and shall contain and is sufficient if it contains in substance a statement that the defendant committed an offence therein specified.

Reference
to
statutory
provision

- (3) Where in a count an offence is identified but the count fails to set out one or more of the essential elements of the offence, a reference to the provision creating or defining the offence shall be deemed to incorporate all the essential elements of the offence.

Idem

- (4) The statement referred to in subsection 2 may be,
- (a) in popular language without technical averments or allegations of matters that are not essential to be proved;
 - (b) in the words of the enactment that describes the offence; or
 - (c) in words that are sufficient to give to the defendant notice of the offence with which he is charged.

(5) Any number of counts for any number of offences may be joined in the same information. More than one count

(6) A count shall contain sufficient detail of the circumstances of the alleged offence to give to the defendant reasonable information with respect to the act or omission to be proved against him and to identify the transaction referred to. Particulars of count

(7) No count in an information is insufficient by reason of the absence of details where, in the opinion of the court, the count otherwise fulfils the requirements of this section and, without restricting the generality of the foregoing, no count in an information is insufficient by reason only that, Sufficiency

- (a) it does not name the person affected by the offence or intended or attempted to be affected;
- (b) it does not name the person who owns or has a special property or interest in property mentioned in the count;
- (c) it charges an intent in relation to another person without naming or describing the other person;
- (d) it does not set out any writing that is the subject of the charge;
- (e) it does not set out the words used where words that are alleged to have been used are the subject of the charge;
- (f) it does not specify the means by which the alleged offence was committed;
- (g) it does not name or describe with precision any person, place or thing; or
- (h) it does not, where the consent of a person, official or authority is required before proceedings may be instituted for an offence, state that the consent has been obtained.

(8) A count is not objectionable for the reason only that, Idem

- (a) it charges in the alternative several different matters, acts or omissions that are stated in the alternative in an enactment that describes as an offence the matters, acts or omissions charged in the count; or

(b) it is double or multifarious.

Need to
negative
exception.
etc.

(9) No exception, exemption, proviso, excuse or qualification prescribed by law is required to be set out or negated, as the case may be, in an information.

Summons

27.—(1) A summons issued under section 23 or 25 shall,

- (a) be directed to the defendant;
- (b) set out briefly the offence in respect of which the defendant is charged; and
- (c) require the defendant to attend court at a time and place stated therein and to attend thereafter as required by the court in order to be dealt with according to law.

Service

(2) A summons shall be served by a provincial offences officer by delivering it personally to the person to whom it is directed or if that person cannot conveniently be found, by leaving it for him at his last known or usual place of abode with an inmate thereof who appears to be at least sixteen years of age.

Service
outside
Ontario

(3) Notwithstanding subsection 2, where the person to whom a summons is directed does not reside in Ontario, the summons shall be deemed to have been duly served seven days after it has been sent by registered mail to his last-known or usual place of abode.

Service
on
corporation

(4) Service of a summons on a corporation may be effected by delivering the summons personally,


- (a) in the case of a municipal corporation, to the mayor, warden, reeve or other chief officer of the corporation or to the clerk of the corporation; or
- (b) in the case of any other corporation, to the manager, secretary or other executive officer of the corporation or person apparently in charge of a branch office thereof,

or by mailing the summons by registered mail to the corporation at an address held out by the corporation to be its address, in which case the summons shall be deemed to have been duly served seven days after the day of mailing.



Substi-
tutional
service

(5) A justice, upon application and upon being satisfied that service can not be made effectively on a corporation

in accordance with subsection 4, may by order authorize another method of service that has a reasonable likelihood of coming to the attention of the corporation. 

(6) Service of a summons may be proved by statement under oath, written or oral, of the person who made the service. Proof of service

28.—(1) A warrant issued under section 25 shall, Contents of warrant

- (a) name or describe the defendant;
- (b) set out briefly the offence in respect of which the defendant is charged; and
- (c) order that the defendant be forthwith arrested and brought before a justice to be dealt with according to law.

(2) A warrant issued under section 25 remains in force until it is executed and need not be made returnable at any particular time. Idem

PART IV

TRIAL AND SENTENCING

Trial

29. This Part applies to proceedings commenced under this Act. Application of Part

30.—(1) Subject to subsection 2, a proceeding in respect of an offence shall be heard and determined in the provincial offences court in whose territorial jurisdiction the offence occurred. Proper court

(2) A proceeding in respect of an offence may be heard and determined in the provincial offences court having territorial jurisdiction that adjoins that in which the offence occurred if, Idem

- (a) the court holds sittings in a place reasonably proximate to the place where the offence occurred; and
- (b) the court and place of sitting referred to in clause *a* are named in the summons or offence notice.

(3) Where a proceeding is taken in a court other than one referred to in subsection 1 or 2, the court shall order that the proceeding be transferred to the proper court and may where the defendant appears award costs under section 61. Transfer to proper court

Change of
venue

(4) Where, upon the application of a defendant or prosecutor made to the court named in the information or certificate, it appears to the court that,

(a) it would be appropriate in the interests of justice to do so; or

(b) both the defendant and prosecutor consent thereto,

the court may order that the proceeding be transferred to another court in Ontario.

Conditions

(5) The court may, in an order made upon an application by the prosecutor under subsection 3 or 4, prescribe conditions that it thinks proper with respect to the payment of additional expenses caused to the defendant as a result of the change of venue.

Time of
order for
change of
venue

(6) An order under subsection 3 or 4 may be made notwithstanding that any motion preliminary to trial has been disposed of or that the plea has been taken and it may be made at any time before evidence has been heard.

Preliminary
motions

(7) The court to which proceedings are transferred under this section may receive and determine any motion preliminary to trial notwithstanding that the same matter was determined by the court from which the proceeding was transferred.

Delivery of
papers

(8) Where an order is made under subsection 3 or 4, the clerk of the court in which the trial was to be held before the order was made shall deliver any material in his possession in connection with the proceedings forthwith to the clerk of the court before which the trial is ordered to be held, and all proceedings in the case shall be held or, if previously commenced, shall be continued in that court.

Justice
presiding
at trial

31.—(1) The justice presiding when evidence is first taken at the trial shall preside over the whole of the trial.

When
presiding
justice
unable to
act before
adjudica-
tion

(2) Where evidence has been taken at a trial and, before making his adjudication, the presiding justice dies or in his opinion or the opinion of the chief judge of the provincial offences courts is for any reason unable to continue, another justice shall conduct the hearing again as a new trial.

When
presiding
justice
unable to
act after
adjudica-
tion

(3) Where evidence has been taken at a trial and, after making his adjudication but before making his order or imposing sentence, the presiding justice dies or in his opinion or the opinion of the chief judge of the provincial offences

courts is for any reason unable to continue, another justice may make the order or impose the sentence that is authorized by law.

(4) A justice presiding at a trial may, at any stage of the trial and upon the consent of the prosecutor and defendant, order that the trial be conducted by another justice and, upon the order being given, subsection 2 applies as if the justice were unable to act.

Consent to
change
presiding
justice

32. The court retains jurisdiction over the information or certificate notwithstanding the failure of the court to exercise its jurisdiction at any particular time or that the provisions of this Act respecting adjournments are not complied with.

Retention
of juris-
diction

33.—(1) In addition to his right to withdraw a charge, the Attorney General or his agent may stay any proceeding at any time before judgment by direction in court to the clerk of the court in which the proceedings are conducted and thereupon any recognizance relating to the proceeding is vacated.

Stay of
proceeding

(2) A proceeding stayed under subsection 1 may be recommenced by direction of the Attorney General, the Deputy Attorney General or a Crown attorney to the clerk of the court in which the proceeding was stayed but a proceeding that is stayed shall not be recommenced,

Recommence-
ment

(a) later than one year after the stay; or

(b) after the expiration of any limitation period applicable, which shall run as if the proceeding had not been commenced until the recommencement,

whichever is the earlier.

34.—(1) A defendant may at any stage of the proceeding apply to the court to amend or to divide a count that,

Dividing
counts

(a) charges in the alternative different matters, acts or omissions that are stated in the alternative in the enactment that creates or describes the offence; or

(b) is double or multifarious,

on the ground that, as framed, it prejudices him in his defence.

Idem

(2) Upon an application under subsection 2, where the court is satisfied that the ends of justice so require, it may order that a count be amended or divided into two or more counts, and thereupon a formal commencement may be inserted before each of the counts into which it is divided.

Amendment
of
information
or certificate

35.—(1) The court may, at any stage of the proceeding, amend the information or certificate as may be necessary if it appears that the information or certificate,

- (a) fails to state or states defectively anything that is requisite to charge the offence;
- (b) does not negative an exception that should be negatived; or
- (c) is in any way defective in substance or in form.

Idem

(2) The court may, during the trial, amend the information or certificate as may be necessary if the matters to be alleged in the proposed amendment are disclosed by the evidence taken at the trial.

Variances
between
charge and
evidence

(3) A variance between the information or certificate and the evidence taken on the trial is not material with respect to,

- (a) the time when the offence is alleged to have been committed, if it is proved that the information was laid or certificate issued within the prescribed period of limitation; or
- (b) the place where the subject-matter of the proceedings is alleged to have arisen, except in an issue as to the jurisdiction of the court.

Considera-
tions on
amendment

(4) The court shall, in considering whether or not an amendment should be made, consider,


- (a) the evidence taken on the trial, if any;
- (b) the circumstances of the case;
- (c) whether the defendant has been misled or prejudiced in his defence by a variance, error or omission; and
- (d) whether, having regard to the merits of the case, the proposed amendment can be made without injustice being done.


(5) The question whether an order to amend an information or certificate should be granted or refused is a question of law. Amendment. question of law

(6) An order to amend an information or certificate shall be endorsed on the information or certificate as part of the record and the trial shall proceed as if the information or certificate had been originally laid as amended. Endorsement of order to amend

36. The court may, before or during trial, if it is satisfied that it is necessary for a fair trial, order that a particular, further describing any matter relevant to the proceedings, be furnished to the defendant. Particulars

37.—(1) An objection to an information or certificate for a defect apparent on its face shall be taken by motion to quash the information or certificate before the defendant has pleaded, and thereafter only by leave of the court. Motion to quash information or certificate

 (2) The court shall not quash an information or certificate unless an amendment or particulars under sections 34, 35 and 36 would fail to satisfy the ends of justice. Grounds for quashing

38. Where the information or certificate is amended or particulars are ordered and an adjournment is necessary as a result thereof, the court may make an order under section 61 for costs resulting from the adjournment.  Costs on amendment or particulars

39.—(1) The court may, before trial, where it is satisfied that the ends of justice so require, direct that separate counts, informations or certificates be tried together or that persons who are charged separately be tried together. Joinder of counts or defendants

(2) The court may, before or during the trial, where it is satisfied that the ends of justice so require, direct that separate counts, informations or certificates be tried separately or that persons who are charged jointly or being tried together be tried separately. Separate trials

40.—(1) Where a justice is satisfied that a person is able to give material evidence in a proceeding under this Act, the justice may issue a subpoena requiring the person to attend to give evidence and bring with him any writings or things referred to in the subpoena. Issuance of subpoena

(2) A subpoena shall be served and the service shall be proved in the same manner as a summons under section 27. Service

Attend-
ance

(3) A person who is served with a subpoena shall attend at the time and place stated in the subpoena to give evidence and, if required by the subpoena, shall bring with him any writing or other thing that he has in his possession or under his control relating to the subject-matter of the proceedings.

Remaining
in
attendance

(4) A person who is served with a subpoena shall remain in attendance during the hearing and the hearing as resumed after adjournment from time to time unless he is excused from attendance by the presiding justice.

Arrest of
witness

41.—(1) Where a judge is satisfied upon evidence under oath, that a person is able to give material evidence that is necessary in a proceeding under this Act and,

(a) will not attend if a subpoena is served; or

(b) attempts to serve a subpoena have been made and have failed because he is evading service,

the judge may issue a warrant in the prescribed form for the arrest of the person.

Idem

(2) Where a person who has been served with a subpoena to attend to give evidence in a proceeding does not attend or remain in attendance, the court may, if it is established,

(a) that the subpoena has been served; and

(b) that the person is able to give material evidence that is necessary,

issue or cause to be issued a warrant in the prescribed form for the arrest of the person.

Bringing
before
justice

(3) The police officer who arrests a person under a warrant issued under subsection 1 or 2 shall immediately take the person before a justice.

Release on
recogniz-
ance

(4) Unless the justice is satisfied that it is necessary to detain a person in custody to ensure his attendance to give evidence, the justice shall order the person released upon condition that he enter into a recognizance in such amount and with such sureties, if any, as are reasonably necessary to ensure his attendance.

Bringing
before
judge

(5) Where a proceeding under subsection 4 is before a justice of the peace and the person is not released, the justice of the peace shall cause the person to be brought before a judge within two days of his decision.

(6) Where the judge is satisfied that it is necessary to detain the person in custody to ensure his attendance to give evidence, the judge may order that the person be detained in custody to testify at the trial or to have his evidence taken by a commissioner under an order made under subsection 11.

Detention

(7) Where the judge does not make an order under subsection 6, he shall order that the person be released upon condition that he enter into a recognizance in such amount and with such sureties, if any, as are reasonably necessary to ensure his attendance.

Release on
recogniz-
ance

(8) A person who is ordered to be detained in custody under subsection 6 or is not released in fact under subsection 7 shall not be detained in custody for a period longer than ten days.

Maximum
imprison-
ment

(9) A judge, or the justice presiding at a trial, may at any time order the release of a person in custody under this section where he is satisfied that the detention is no longer justified.

Release
when no
longer
required

(10) Where a person who is bound by a recognizance to attend to give evidence in any proceeding does not attend or remain in attendance, the court before which the person is bound to attend may issue a warrant in the prescribed form for the arrest of that person and,

Arrest on
breach of
recogniz-
ance

(a) where he is brought directly before the court, subsections 6 and 7 apply; and

(b) where he is not brought directly before the court, subsections 3 to 7 apply.

(11) A judge or the justice presiding at the trial may order that the evidence of a person held in custody under this section be taken by a commissioner under section 44, which applies thereto in the same manner as to a witness who is unable to attend by reason of illness.

Commission
evidence of
witness in
custody

42.—(1) Where a person whose attendance is required in a court to stand trial or to give evidence is confined in a prison, and a judge is satisfied, upon evidence under oath orally or by affidavit, that his attendance is necessary to satisfy the ends of justice, the judge may issue an order in the prescribed form that the person be brought before the court before which his attendance is required, from day to day, as may be necessary.

Order for
person in
a prison
to attend

Idem

(2) An order under subsection 1 shall be addressed to the person who has custody of the prisoner and on receipt thereof that person shall,

- (a) deliver the prisoner to the police officer or other person who is named in the order to receive him; or
- (b) bring the prisoner before the court upon payment of his reasonable charges in respect thereof.

Idem

(3) An order made under subsection 1 shall direct the manner in which the person shall be kept in custody and returned to the prison from which he is brought.

Penalty for
failure to
attend

43.—(1) Every person who, being required by law to attend or remain in attendance at a hearing, fails without lawful excuse to attend or remain in attendance accordingly is guilty of an offence and on conviction is liable to a fine of not more than \$1,000, or to imprisonment for a term of not more than thirty days, or to both.

Proof of
failure to
attend

(2) In a proceeding under subsection 1, a certificate of the clerk or a justice of the court before which the defendant is alleged to have failed to attend stating that the defendant failed to attend is admissible in evidence as *prima facie* proof of the fact without proof of the signature or office of the person appearing to have signed the certificate.

Order for
evidence
by
commissioner

44.—(1) Upon the application of the defendant or prosecutor, a judge or, during trial, the court may by order appoint a commissioner to take the evidence of a witness who is out of Ontario or is not likely to be able to attend the trial by reason of illness or physical disability or for some other good and sufficient cause.

Admission
of
commissioner
evidence

(2) Evidence taken by a commissioner appointed under subsection 1 may be read in evidence in the proceeding if,

- (a) it is proved by oral evidence or by affidavit that the witness is unable to attend for a reason set out in subsection 1;
- (b) the transcript of the evidence is signed by the commissioner by or before whom it purports to have been taken; and
- (c) it is proved to the satisfaction of the court that reasonable notice of the time and place for taking the evidence was given to the other party, and the party had full opportunity to cross-examine the witness.

(3) An order under subsection 1 may make provision to enable the defendant to be present or represented by counsel or agent when the evidence is taken, but failure of the defendant to be present or to be represented by counsel or agent in accordance with the order does not prevent the reading of the evidence in the proceedings if the evidence has otherwise been taken in accordance with the order and with this section. Attendance of accused


(4) Except as otherwise provided by this section or by the rules, the practice and procedure in connection with the appointment of commissioners under this section, the taking of evidence by commissioners, the certifying and return thereof, and the use of the evidence in the proceedings shall, as far as possible, be the same as those that govern like matters in civil proceedings in the Supreme Court. Application of rules in civil cases

45.—(1) Where at any time before a defendant is sentenced a court has reason to believe, based on, Trial of issue as to capacity to conduct defence

(a) the evidence of a legally qualified medical practitioner or, with the consent of the parties, a written report of a legally qualified medical practitioner; or

(b) the conduct of the defendant in the courtroom,

that the defendant suffers from mental disorder, the court may,

 (c) where the justice presiding is a judge, by order suspend the proceedings and direct the trial of the issue as to whether the defendant is, because of mental disorder, unable to conduct his defence; or

(d) where the justice presiding is a justice of the peace, refer the matter to a judge who may make an order referred to in clause c.

(2) For the purposes of subsection 1, the court may order the defendant to attend to be examined under subsection 5. Examination

(3) The trial of the issue shall be presided over by a judge and, Finding

(a) where he finds that the defendant is, because of mental disorder, unable to conduct his defence, he shall order that further proceeding on the charge be suspended;

- (b) where he finds that the defendant is able to conduct his defence, he shall order that the suspended proceeding be continued.

Application
for
rehearing
as to
capacity

(4) At any time within one year after an order is made under subsection 3, either party may, upon seven days notice to the other, apply to a judge to rehear the trial of the issue and where upon the rehearing the judge finds that the defendant is able to conduct his defence, he may order that the suspended proceeding be continued.

Order for
examination

(5) For the purposes of subsection 1 or a hearing or rehearing under subsection 3 or 4, the court or judge may order the defendant to attend at such place or before such person and at or within such time as are specified in the order and submit to an examination for the purpose of determining whether the defendant is, because of mental disorder, unable to conduct his defence.

Idem

(6) Where the defendant fails or refuses to comply with an order under subsection 5 without reasonable excuse or where the person conducting the examination satisfies a judge that it is necessary to do so, the judge may by warrant direct that the defendant be taken into such custody as is necessary for the purpose of the examination and in any event for not longer than seven days and, where it is necessary to detain the defendant in a place, the place shall be, where practicable, a psychiatric facility.

Limitation
on
suspension
of
proceeding

(7) Where an order is made under subsection 3 and one year has elapsed and no further order is made under subsection 4, no further proceeding shall be taken in respect of the charge or any other charge arising out of the same circumstance.

Taking of
plea

46.—(1) After being informed of the substance of the information or certificate, the defendant shall be asked whether he pleads guilty or not guilty of the offence charged therein.

Conviction
on plea of
guilty

(2) Where the defendant pleads guilty, the court may accept the plea and convict him.

Refusal
to plead

(3) Where the defendant refuses to plead or does not answer directly, the court shall enter a plea of not guilty.

(4) Where the defendant pleads not guilty of the offence charged but guilty of any other offence, whether or not it is an included offence, the court may, with the consent of the prosecutor, accept such plea of guilty and accordingly amend the information or substitute the offence to which the defendant pleads guilty.

Plea of guilty to another offence

47.—(1) Subject to section 6, where the defendant pleads not guilty, the court shall hold the trial.

Trial on plea of not guilty

(2) The defendant is entitled to make his full answer and defence.

Right to defend

(3) The prosecutor or defendant, as the case may be, may examine and cross-examine witnesses.

Right to examine witnesses

(4) The court may receive and act upon any facts agreed upon by the defendant and prosecutor without proof or evidence.

Agreed facts

(5) Notwithstanding section 8 of *The Evidence Act*, the defendant is not a compellable witness for the prosecution.

Defendant not compellable
R.S.O. 1970, c. 151

48.—(1) The court may receive and consider evidence taken before the same justice on a different charge against the same defendant, with the consent of the parties.

Evidence taken on another charge

(2) Where a certificate as to the content of an official record is, by any Act, made admissible in evidence as *prima facie* proof, the court may, for the purpose of deciding whether the defendant is the person referred to in the certificate, receive and base its decision upon information it considers credible or trustworthy in the circumstances of each case.

Certificate as evidence

(3) The burden of proving that an authorization, exception, exemption or qualification prescribed by law operates in favour of the defendant is on the defendant, and the prosecutor is not required, except by way of rebuttal, to prove that the authorization, exception, exemption or qualification does not operate in favour of the defendant, whether or not it is set out in the information.

Burden of proving exception, etc.

49.—(1) The court may order that an exhibit be kept in such custody and place as, in the opinion of the court, is appropriate for its preservation.

Exhibits

Release of
exhibits

(2) Where any thing is filed as an exhibit in a proceeding, the clerk may release the exhibit upon the consent of the parties at any time after the trial or, in the absence of consent, may return the exhibit to the party tendering it after the disposition of any appeal in the proceeding or, where an appeal is not taken, after the expiration of the time for appeal.

Adjourn-
ments

50.—(1) The court may, from time to time, adjourn a trial or hearing but, where the defendant is in custody, an adjournment shall not be for a period longer than eight days without the consent of the defendant.

Early
resumption

(2) A trial or hearing that is adjourned for a period may be resumed before the expiration of the period with the consent of the defendant and the prosecutor.

Appearance
by defendant

51.—(1) A defendant may appear and act personally or by counsel or agent.

Appearance
by
corporation

(2) A defendant that is a corporation shall appear and act by counsel or agent.

Exclusion
of agents

(3) The court may bar any person from appearing as an agent who is not a barrister and solicitor entitled to practise in Ontario if the court finds that the person is not competent properly to represent or advise the person for whom he appears as agent or does not understand and comply with the duties and responsibilities of an agent.

Compelling
attendance of
defendant

52. Notwithstanding that a defendant appears by counsel or agent, the court may order the defendant to attend personally, and, where it appears to be necessary to do so, may issue a summons in the prescribed form.

Excluding
defendant
from
hearing

53.—(1) The court may cause the defendant to be removed and to be kept out of court,

- (a) when he misconducts himself by interrupting the proceedings so that to continue in his presence would not be feasible; or
- (b) where, during the trial of an issue as to whether the defendant is, because of mental disorder, unable to conduct his defence, the court is satisfied that failure to do so might have an adverse effect on the mental health of the defendant.

(2) The court may exclude the public or any member of the public from a hearing where, in the opinion of the court, it is necessary to do so, ^{Excluding public from hearing}

- (a) for the maintenance of order in the courtroom;
- (b) to protect the reputation of a minor; or
- (c) to remove an influence that might affect the testimony of a witness.

(3) Where the court considers it necessary to do so to protect the reputation of a minor, the court may make an order prohibiting the publication or broadcast of the identity of the minor or of the evidence or any part of the evidence taken at the hearing. ^{Prohibition of publication of evidence}

54.—(1) Where the defendant appears for a hearing and the prosecutor, having had due notice, does not appear, the court may dismiss the charge or may adjourn the hearing to another time upon such terms as it considers proper. ^{Failure of prosecutor to appear}

(2) Where the prosecutor does not appear at the time and place appointed for the resumption of an adjourned hearing under subsection 1, the court may dismiss the charge. ^{Idem}

(3) Where a hearing is adjourned under subsection 1 or a charge is dismissed under subsection 2, the court may make an order under section 61 for the payment of costs. ^{Costs}

(4) Where a charge is dismissed under subsection 1 or 2, the court may, if requested by the defendant, draw up an order of dismissal stating the grounds therefor and shall give the defendant a certified copy of the order of dismissal which is, without further proof, a bar to any subsequent proceedings against the defendant in respect of the same cause. ^{Written order of dismissal}

55.—(1) Where a defendant does not appear at the time and place appointed for a hearing and it is proved by the prosecutor, having been given a reasonable opportunity to do so, that a summons was served, a notice of trial was given under Part I or II, an undertaking to appear was given or a recognizance to appear was entered into, as the case may be, or where the defendant does not appear upon the resumption of a hearing that has been adjourned, the court, ^{Ex parte conviction}

- (a) may proceed *ex parte* to hear and determine the proceedings in the absence of the defendant;

(b) may, if it thinks fit, adjourn the hearing and issue a summons to appear or issue a warrant in the prescribed form for the arrest of the defendant; or

(c) may, where the defendant does not appear in response to the summons or warrant on the date to which the hearing is adjourned, proceed under clause *a* or *b*.

Where
convicted
ex parte

(2) Where, the court proceeds under clause *a* of subsection 1, no proceeding arising out of the failure of the defendant to appear at the time and place appointed for the hearing or for the resumption of the hearing shall be instituted or if instituted shall be proceeded with, except with the consent of the Attorney General or his agent.

Included
offences

56. Where the commission of the offence charged includes the commission of another offence, the defendant may be convicted of an offence so included that is proved, notwithstanding that the whole offence charged is not proved.

Sentencing

Pre-sentence
report

57.—(1) Where a defendant is convicted of an offence in a proceeding commenced by information, the court may direct a probation officer to prepare and file with the court a report in writing relating to the defendant for the purpose of assisting the court in imposing sentence.

Service

(2) Where a report is filed with the court under subsection 1, the clerk of the court shall cause a copy of the report to be provided to the defendant or his counsel or agent and to the prosecutor.

Submissions
as to
sentence

58.—(1) Where a defendant who appears is convicted of an offence, the court shall give the prosecutor and the counsel or agent for the defendant an opportunity to make submissions as to sentence and, where the defendant has no counsel or agent, the court shall ask him if he has anything to say before sentence is passed upon him.

Omission
to comply

(2) The omission to comply with subsection 1 does not affect the validity of the proceeding.

Inquiries
by court



(3) Where a defendant is convicted of an offence, the court may make such inquiries, on oath or otherwise, of and concerning the defendant as it considers desirable, including his economic circumstances, but the defendant shall not be compelled to answer.

(4) A certificate setting out with reasonable particularity the finding of guilt or acquittal or conviction and sentence in Canada of a person signed by, Proof of previous conviction

(a) the person who made the adjudication; or

(b) the clerk of the court in which the adjudication was made,


is, upon the court being satisfied that the defendant is the person referred to in the certificate, admissible in evidence and is *prima facie* proof of the facts stated therein without proof of the signature or the official character of the person appearing to have signed the certificate.

 **59.** In determining the sentence to be imposed on a person convicted of an offence, the justice may take into account any time spent in custody by the person as a result of the offence. Time spent in custody considered 

60.—(1) No penalty prescribed for an offence is a minimum penalty unless it is specifically declared to be a minimum. Provision for minimum penalty

(2) Notwithstanding that the provision that creates the penalty for an offence prescribes a minimum fine, where in the opinion of the court exceptional circumstances exist so that to impose the minimum fine would be unduly oppressive or otherwise not in the interests of justice, the court may impose a fine that is less than the minimum or suspend the sentence. Relief against minimum fine

(3) Where a minimum penalty is prescribed for an offence and the minimum penalty includes imprisonment, the court may, notwithstanding the prescribed penalty, impose a fine of not more than \$2,000 in lieu of imprisonment. Idem, re imprisonment

 **61.**—(1) Upon conviction, the defendant is liable to pay to the court an amount by way of costs that is fixed by the regulations. Fixed costs on conviction

(2) The court may, in its discretion, order costs towards fees and expenses reasonably incurred by or on behalf of witnesses in amounts not exceeding the maximum fixed by the regulations, to be paid, Costs respecting witnesses

(a) to the court or prosecutor by the defendant; or

(b) to the defendant by the person who laid the information or issued the certificate, as the case may be,

but where the proceeding is commenced by means of a certificate, the total of such costs shall not exceed \$100.

Costs
collectable
as a fine

(3) Costs payable under this section shall be deemed to be a fine for the purpose of enforcing payment.

General
penalty

62.—(1) Except where otherwise expressly provided by law, every person who is convicted of an offence is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than six months, or to both.

Amendment
of subs. 1

(2) Subsection 1 is amended by striking out “or to imprisonment for a term of not more than six months, or to both” in the third and fourth lines.

Effective
date of
amendment

(3) Subsection 2 does not come into force until the 1st day of January, 1981.

Minute of
conviction

63. Where a court convicts a defendant or dismisses a charge, a minute of the dismissal or conviction and sentence shall be made by the court, and, upon request by the defendant or the prosecutor or by the Attorney General or his agent, the court shall cause a copy thereof certified by the clerk of the court to be delivered to the person making the request.

Time when
imprison-
ment
starts

64.—(1) The term of imprisonment imposed by sentence shall, unless otherwise directed in the sentence, commence on the day on which the convicted person is taken into custody thereunder, but no time during which the convicted person is imprisoned or out on bail before sentence shall be reckoned as part of the term of imprisonment to which he is sentenced.

Idem

(2) Where the court imposes imprisonment, the court may order custody to commence on a day not later than thirty days after the day of sentencing.

Sentences
consecutive



65. Where a person is subject to more than one term of imprisonment at the same time, the terms shall be served consecutively except in so far as the court has ordered a term to be served concurrently with any other term of imprisonment.

Authority
of warrant

66.—(1) A warrant of committal is sufficient authority,

(a) for the conveyance of the prisoner in custody for the purpose of committal under the warrant; and

- (b) for the reception and detention of the prisoner by keepers of prisons in accordance with the terms of the warrant.

 (2) A person to whom a warrant of committal is directed shall convey the prisoner to the correctional institution named in the warrant. 

Conveyance
of prisoner

(3) A sentence of imprisonment shall be served in accordance with the enactments and rules that govern the institution to which the prisoner is sentenced.

Prisoner
subject to
rules of
institution

67.—(1) A fine becomes due and payable fifteen days after its imposition.

When
fine due

(2) Where the court imposes a fine, the court shall ask the defendant if he wishes an extension of the time for payment of the fine.

Extension of
time for
payment
of a fine

(3) Where the defendant requests an extension of the time for payment of the fine, the court may make such inquiries, on oath or otherwise, of and concerning the defendant as the court considers desirable, but the defendant shall not be compelled to answer.

Inquiries

(4) Unless the court finds that the request for extension of time is not made in good faith or that the extension would likely be used to evade payment, the court shall extend the time for payment by ordering periodic payments or otherwise.


Granting of
extension

(5) Where a fine is imposed in the absence of the defendant, the clerk of the court shall give the defendant notice of the fine and its due date and of his right to apply for an extension of the time for payment under subsection 6.

Notice
where
convicted
in absentia

(6) The defendant may, at any time by application in the prescribed form filed in the office of the court, request an extension or further extension of time for payment of a fine and the application shall be determined by a justice and the justice has the same powers in respect of the application as the court has under subsections 3 and 4.

Further
application
for
extension

 **68.** The Lieutenant Governor in Council may make regulations establishing a program to permit the payment of fines by means of credits for work performed, and, for the purpose and without restricting the generality of the foregoing may,

Regulation
for work
credits for
fines

- (a) prescribe classes of work and the conditions under which they are to be performed;
- (b) prescribe a system of credits;
- (c) provide for any matter necessary for the effective administration of the program,

and any regulation may limit its application to any part or parts of Ontario.

Civil
enforcement
of fines

69.—(1) When the payment of a fine is in default, the clerk of the court may complete a certificate in the prescribed form as to the imposition of the fine and the amount remaining unpaid and file the certificate in a court of competent jurisdiction and upon filing, the certificate shall be deemed to be an order or judgment of that court for the purposes of enforcement.

Limitation

(2) A certificate shall not be filed under subsection 1 after two years after the default in respect of which it is issued.

Certificate of
discharge

(3) Where a certificate has been filed under subsection 1 and the fine is fully paid, the clerk shall file a certificate of payment upon which the certificate of default is discharged and, where a writ of execution has been filed with the sheriff, the clerk shall file a certificate of payment with the sheriff, upon which the writ is cancelled.

Default

70.—(1) The payment of a fine is in default when any part of the fine is due and unpaid for fifteen days or more.

Order on
default

(2) Where a justice is satisfied that payment of a fine is in default, the justice,

(a) shall order that any permit, licence, registration or privilege in respect of which a suspension is authorized by or under any Act for non-payment of the fine be suspended, not renewed or not issued until the fine is paid; and

(b) may direct the clerk of the court to proceed with civil enforcement under section 69.

Imprison-
ment for
non-payment
of fine

(3) A justice may issue a warrant in the prescribed form for the committal of the defendant where,

(a) an order or direction under clause a of subsection 2 has not resulted in payment within a time that is reasonable in the circumstances;

(b) all other reasonable methods of collecting the fine have been tried and failed or, in the opinion of the justice, would not likely result in payment within a reasonable time in the circumstances; and

(c) the defendant has been given fifteen days notice of the intent to issue a warrant and has had an opportunity to be heard.

(4) In exceptional circumstances where, in the opinion of the court imposing the fine, to proceed under subsection 3 would defeat the ends of justice, the court may,

Provision on conviction for imprisonment in default

(a) order that no warrant of committal be issued under subsection 3; or

(b) order imprisonment in default of payment of the fine and that no extension of time for payment be granted.

(5) Imprisonment under a warrant issued under subsection 3 or 4 shall be for three days, plus one day for each \$25 or part thereof that is in default, subject to a maximum period of,

Term of imprisonment

(a) ninety days; or

(b) half of the maximum imprisonment, if any, provided for the offence,

whichever is the greater.

(6) Any payment made after a warrant is issued under subsection 3 or 4 shall reduce the term by the number of days that is in the same proportion to the number of days in the term as the amount paid bears to the total fine and no amount offered in part payment of a fine shall be accepted unless it is sufficient to secure reduction of sentence of one day, or a multiple thereof.

Effect of payments

71. Where an Act provides that a fine may be suspended subject to the performance of a condition,

Suspension of fine on conditions

(a) the period of suspension shall be fixed by the court and shall be for not more than one year;

(b) the court shall provide in its order of suspension the method of proving the performance of the condition;

- (c) the suspension is in addition to and not in lieu of any other power of the court in respect of the fine; and
- (d) the fine is not in default until fifteen days have elapsed after notice that the period of suspension has expired is given to the defendant.

Probation
order

72.—(1) Where a defendant is convicted of an offence in a proceeding commenced by information, the court may, having regard to the age, character and background of the defendant, the nature of the offence and the circumstances surrounding its commission,

- (a) suspend the passing of sentence and direct that the defendant comply with the conditions prescribed in a probation order;
- (b) in addition to fining the defendant or sentencing him to imprisonment, whether in default of payment of a fine or otherwise, direct that the defendant comply with the conditions prescribed in a probation order; or
- (c) where it imposes a sentence of imprisonment on the defendant, whether in default of payment of a fine or otherwise, that does not exceed ninety days, order that the sentence be served intermittently at such times as are specified in the order and direct that the defendant, at all times when he is not in confinement pursuant to such order, comply with the conditions prescribed in a probation order.

Statutory
conditions
of order

(2) A probation order shall be deemed to contain the conditions that,

- (a) the defendant not commit the same or any related or similar offence, or any offence under a statute of Canada or Ontario or any other province of Canada that is punishable by imprisonment;
- (b) the defendant appear before the court as and when required; and
- (c) the defendant notify the court of any change in his address.

Conditions
imposed
by court

(3) In addition to the conditions set out in subsection 2, the court may prescribe the following conditions in a probation order,

- (a) that the defendant satisfy any compensation or restitution that is required or authorized by an Act;
- (b) with the consent of the defendant and where the conviction is of an offence that is punishable by imprisonment that the defendant perform a community service as set out in the order;
- (c) where the conviction is of an offence punishable by imprisonment, such other conditions relating to the circumstances of the offence and of the defendant that contributed to the commission of the offence as the court considers appropriate to prevent similar unlawful conduct or to contribute to the rehabilitation of the defendant; or
- (d) where considered necessary for the purpose of implementing the conditions of the probation order, that the defendant report to a responsible person designated by the court and, in addition, where the circumstances warrant it, that the defendant be under the supervision of the person to whom he is required to report.

(4) A probation order shall be in the prescribed form and the court that makes the order shall specify therein the period for which it is to remain in force, which shall not be for more than two years from the date when the order takes effect. Form of order

(5) Where the court makes a probation order, it shall cause a copy of the order and a copy of section 75 to be given to the defendant. Notice of order

(6) The Lieutenant Governor in Council may make regulations governing restitution, compensation and community service orders, including their terms and conditions. Regulations for community service orders

73.—(1) A probation order comes into force, When order comes into force

(a) on the date on which the order is made; or

(b) where the defendant is sentenced to imprisonment other than a sentence to be served intermittently, upon the expiration of that sentence.

(2) Subject to section 75, where a defendant who is bound by a probation order is convicted of an offence or is imprisoned in default of payment of a fine, the order continues in force except in so far as the sentence or imprisonment Continuation in force

renders it impossible for the defendant to comply for the time being with the order.

Variation of
probation
order

74. The court may, at any time upon the application of the defendant or prosecutor with notice to the other, after a hearing or, with the consent of the parties, without a hearing,

- (a) make any changes in or additions to the conditions prescribed in the order that in the opinion of the court are rendered desirable by a change in circumstances;
- (b) relieve the defendant, either absolutely or upon such terms or for such period as the court considers desirable, of compliance with any condition described in any of the clauses in subsection 3 of section 72 that is prescribed in the order; or
- (c) terminate the order or decrease the period for which the probation order is to remain in force,

and the court shall thereupon endorse the probation order accordingly and, if it changes or adds to the conditions prescribed in the order, inform the defendant of its action and give him a copy of the order so endorsed.

Breach of
probation
order

75. Where a defendant who is bound by a probation order is convicted of an offence constituting a breach of condition of the order and,

- (a) the time within which he may appeal or apply for leave to appeal against that conviction has expired and he has not taken an appeal or applied for leave to appeal;
- (b) he has taken an appeal or applied for leave to appeal against the conviction and the appeal or application for leave has been dismissed or abandoned; or
- (c) he has given written notice to the court that convicted him that he elects not to appeal,

or where the defendant otherwise wilfully fails or refuses to comply with the order, he is guilty of an offence and upon conviction the court may,

- (d) impose a fine of not more than \$1,000 or imprisonment for a term of not more than thirty days, or both, and in lieu of or in addition to the penalty, continue the probation order with such changes or additions and for such extended term, not exceeding an additional year, as the court considers reasonable; or
- (e) where the justice presiding is the justice who made the original order, in lieu of imposing the penalty under clause *d*, revoke the probation order and impose the sentence the passing of which was suspended upon the making of the probation order.

PART V

GENERAL PROVISIONS

76.—(1) Proceedings shall not be commenced after the expiration of any limitation period prescribed for the offence or, where no limitation period is prescribed, after six months after the date on which the offence was, or is alleged to have been, committed. Limitation

(2) A limitation period may be extended by a justice with the consent of the defendant. Extension

77.—(1) Every person is a party to an offence who, Parties to offence

- (a) actually commits it,
- (b) does or omits to do anything for the purpose of aiding any person to commit it; or
- (c) abets any person in committing it.

(2) Where two or more persons form an intention in common to carry out an unlawful purpose and to assist each other therein and any one of them, in carrying out the common purpose, commits an offence, each of them who knew or ought to have known that the commission of the offence would be a probable consequence of carrying out the common purpose is a party to the offence. Common purpose

78.—(1) Where a person counsels or procures another person to be a party to an offence and that other person is afterwards a party to the offence, the person who counselled or procured is a party to the offence, notwithstanding that the offence was committed in a way different from that which was counselled or procured. Counselling

- Idem** (2) Every person who counsels or procures another person to be a party to an offence is a party to every offence that the other commits in consequence of the counselling or procuring that the person who counselled or procured knew or ought to have known was likely to be committed in consequence of the counselling or procuring.
- Computation of age** **79.** In the absence of other evidence, or by way of corroboration of other evidence, a justice may infer the age of a person from his appearance.
- Common law defences** **80.** Every rule and principle of the common law that renders any circumstance a justification or excuse for an act or a defence to a charge continues in force and applies in respect of offences, except in so far as they are altered by or inconsistent with this or any other Act.
- Ignorance of the law** **81.** Ignorance of the law by a person who commits an offence is not an excuse for committing the offence.
- Counsel or agent** **82.** A defendant may act by his counsel or agent.
- Recording of evidence** **83.—(1)** Proceedings in which evidence is taken shall be recorded.
- Evidence under oath** (2) Evidence under this Act shall be taken under oath, except as otherwise provided by law.
- Interpreters** **84.—(1)** A justice may authorize a person to act as interpreter in a proceeding before him where the person swears the prescribed oath and, in the opinion of the justice, is competent.
- Idem** (2) A judge may authorize a person to act as interpreter in proceedings under this Act where he swears the prescribed oath and, in the opinion of the judge is competent and likely to be readily available.
- Extension of time** **85.** Any time prescribed by this Act or the regulations made thereunder or by the rules of the court for doing any thing other than commencing or recommencing proceedings may be extended by the court in which the proceeding is conducted, whether or not the prescribed time has expired.
- Penalty for false statements** **86.** Every person who makes an assertion of fact in a statement or entry in a document or form for use under this Act knowing that the assertion is false is guilty of an offence and on conviction is liable to a fine of not more than \$1,000.

87.—(1) Except as otherwise provided by this Act or the ^{Delivery} rules of the court, any notice or document required or authorized to be given or delivered under this Act or the rules of the court is sufficiently given or delivered if delivered, whether personally or by mail.

(2) Where a notice or document that is required or ^{Idem} authorized to be given or delivered to a person under this Act is mailed to the person at his last known address appearing on the records of the court in the proceeding, there is a rebuttable presumption that the notice or document is delivered to the person.

88. No civil remedy for an act or omission is suspended ^{Civil remedies preserved} or affected for the reason that the act or omission is an offence.

89. Any action authorized or required by this Act is not ^{Process on holidays} invalid for the reason only that the action was taken on a non-juridical day.

90.—(1) The validity of any proceeding is not affected by, ^{Irregularities in form}

(a) any irregularity or defect in the substance or form of the summons, warrant, offence notice, parking infraction notice, undertaking to appear or recognizance; or

(b) any variance between the charge set out in the summons, warrant, parking infraction notice, offence notice undertaking to appear or recognizance and the charge set out in the information or certificate.

(2) Where it appears to the court that the defendant ^{Adjournment to meet irregularities} has been misled by any irregularity, defect or variance mentioned in subsection 1, the court may adjourn the hearing and may make such order as the court considers appropriate, including an order under section 61 for the payment of costs.



91. The Lieutenant Governor in Council may make regu- ^{Regulations} lations,

(a) prescribing any matter referred to in this Act as prescribed by the regulations;

(b) prescribing the form of certificate as to ownership of a motor vehicle given by the Registrar under subsection 2 of section 150 of *The Highway Traffic Act* for the purpose of proceedings under this Act; ^{R.S.O. 1970, c. 202}

- (c) providing for the extension of times prescribed by or under this Act or the rules in the event of a disruption in postal services;
- (d) requiring the payment of fees upon the filing of anything required or permitted to be filed under this Act or the rules and fixing the amounts thereof, and providing for the waiver of the payment of a fee by a justice, or by a judge under Part VI, in such circumstances and under such conditions as are set out in the regulations;
- (e) fixing costs payable upon conviction and referred to in subsection 1 of section 61;
- (f) fixing the items in respect of which costs may be awarded under subsection 2 of section 61 and prescribing the maximum amounts that may be awarded in respect of each item.

PART VI

APPEALS AND REVIEW

Interpre-
tation

92.—(1) In this Part,

- (a) “counsel” when used in respect of proceedings in a provincial court (criminal division) includes an agent;
- (b) “court” means the court to which an appeal is or may be taken under this Part;
- (c) “judge” means a judge of the court to which an appeal is or may be taken under this Part;
- (d) “rules” means the rules made under section 123;
- (e) “sentence” includes any order or disposition consequent upon a conviction and an order as to costs.

References
to Court
of Appeal
R.S.O. 1970,
c. 228

(2) In this Part, a reference to the Court of Appeal means the Court of Appeal notwithstanding subsection 2 of section 17 of *The Judicature Act*.

APPEALS UNDER PART III

Appeal

93.—(1) Where a proceeding is commenced by information under Part III, the defendant or the prosecutor or the

Attorney General by way of intervention may appeal from a conviction or dismissal or from a finding as to ability, because of mental disorder, to conduct a defence or as to sentence.

(2) An appeal under subsection 1 shall be,

Appeal
court

(a) where the appeal is from the decision of a justice of the peace, to the provincial court (criminal division) of the county or district in which the adjudication was made; or

(b) where the appeal is from the decision of a provincial judge, to the county or district court of the county or district in which the adjudication was made.

(3) The appellant shall give notice of appeal in such manner and within such period as is provided by the rules.

Notice of
appeal

94. A defendant who appeals shall, if he is in custody, remain in custody, but a judge may order his release upon any of the conditions set out in subsection 2 of section 134.

Custody
pending
appeal

95.—(1) A notice of appeal by a defendant shall not be accepted for filing if the defendant has not paid in full the fine imposed by the decision appealed from.

Payment of
fine before
appeal

(2) A judge may waive compliance with subsection 1 and order that the appellant enter into a recognizance to appear on the appeal, and the recognizance shall be in such amount, with or without sureties, as the judge directs.

Exception
with recogni-
zance

96. The filing of a notice of appeal does not stay the conviction unless a judge so orders.

Stay

97.—(1) Where an appellant is in custody pending the hearing of the appeal and the hearing of the appeal has not commenced within thirty days from the day on which notice of the appeal was given, the person having custody of the appellant shall apply to a judge to fix a date for the hearing of the appeal.

Fixing of
date where
appellant
in custody

(2) Upon receiving an application under subsection 1, the judge shall, after giving the prosecutor a reasonable opportunity to be heard, fix a date for the hearing of the appeal and give such directions as he thinks appropriate for expediting the hearing of the appeal.

Idem

98. A person does not waive his right of appeal by reason only that he pays the fine or complies with any order imposed upon conviction.

Payment
of fine
not waiver

Transmittal
of material

99. Where a notice of appeal has been filed, the clerk of the appeal court shall notify the clerk of the provincial offences court appealed from of the appeal and, upon receipt of the notification, the clerk of the provincial offences court shall transmit the order appealed from and transmit or transfer custody of all other material in his possession or control relevant to the proceedings to the clerk of the appeal court to be kept with the records of the appeal court.

Powers
of court

100.—(1) The court may, where it considers it to be in the interests of justice,

- (a) order the production of any writing, exhibit or other thing relevant to the appeal;
- (b) order any witness who would have been a compellable witness at the trial, whether or not he was called at the trial,
 - (i) to attend and be examined before the court, or
 - (ii) to be examined in the manner provided by the rules before a judge of the court, or before any officer of the court or justice of the peace or other person appointed by the court for the purpose;
- (c) admit, as evidence, an examination that is taken under subclause ii of clause *b*;
- (d) receive the evidence, if tendered, of any witness;
- (e) order that any question arising on the appeal that,
 - (i) involves prolonged examination of writings or accounts, or scientific investigation, and
 - (ii) cannot in the opinion of the court conveniently be inquired into before the court,
 be referred for inquiry and report, in the manner provided by the rules, to a special commissioner appointed by the court; and
- (f) act upon the report of a commissioner who is appointed under clause *e* in so far as the court thinks fit to do so.

Right of
appellant

(2) In proceedings under this section, the parties or their counsel are entitled to examine or cross-examine witnesses

and, in an inquiry under clause *e* of subsection 1, are entitled to be present during the inquiry and to adduce evidence and to be heard.

101.—(1) An appellant may appear and act personally ^{Right to counsel} or by counsel.

(2) An appellant who is in custody as a result of the ^{Attendance while in custody} decision appealed from is entitled to be present at the hearing of the appeal.

(3) The power of a court to impose sentence may be ^{Sentencing in absence} exercised notwithstanding that the appellant is not present.

102. An appellant may present his case on appeal and his argument in writing instead of orally, and the court shall ^{Written argument} consider any case or argument so presented.

103.—(1) On the hearing of an appeal against a conviction or against a finding as to the ability, because of ^{Powers on appeal against conviction} mental disorder, to conduct a defence, the court by order,

(a) may allow the appeal where it is of the opinion that,

- (i) the finding should be set aside on the ground that it is unreasonable or cannot be supported by the evidence,
- (ii) the judgment of the trial court should be set aside on the ground of a wrong decision on a question of law, or
- (iii) on any ground, there was a miscarriage of justice; or

(b) may dismiss the appeal where,

- (i) the court is of the opinion that the appellant, although he was not properly convicted on a count or part of an information, was properly convicted on another count or part of the information,
- (ii) the appeal is not decided in favour of the appellant on any ground mentioned in clause *a*, or

- (iii) notwithstanding that the court is of the opinion that on any ground mentioned in subclause ii of clause *a* the appeal might be decided in favour of the appellant, it is of the opinion that no substantial wrong or miscarriage of justice has occurred.

Idem

(2) Where the court allows an appeal under clause *a* of subsection 1, it shall,

(a) where the appeal is from a conviction,

(i) direct a finding of acquittal to be entered, or

(ii) order a new trial; or

(b) where the appeal is from a finding as to the ability, because of mental disorder, to conduct a defence, order a new trial, subject to section 45.

Idem

(3) Where the court dismisses an appeal under clause *b* of subsection 1, it may substitute the decision that in its opinion should have been made and affirm the sentence passed by the trial court or impose a sentence that is warranted in law.

Powers on appeal against acquittal

104. Where an appeal is from an acquittal, the court may by order,

(a) dismiss the appeal; or

(b) allow the appeal, set aside the finding and,

(i) order a new trial, or

(ii) enter a finding of guilt with respect to the offence of which, in its opinion, the appellant should have been found guilty, and pass a sentence that is warranted in law.

Appeal against sentence

105.—(1) Where an appeal is taken against sentence, the court shall consider the fitness of the sentence appealed from and may, upon such evidence, if any, as it thinks fit to require or receive, by order,

(a) dismiss the appeal; or

(b) vary the sentence within the limits prescribed by law for the offence of which the defendant was convicted,

and, in making any order under clause *b*, the court may take into account any time spent in custody by the defendant as a result of the offence.

(2) A judgment of a court that varies a sentence has the same force and effect as if it were a sentence passed by the trial court. Variance of sentence

106. Where one sentence is passed upon a finding of guilt on two or more counts, the sentence is good if any of the counts would have justified the sentence. One sentence on more than one count

107.—(1) Judgment shall not be given in favour of an appellant based on any alleged defect in the substance or form of an information, certificate or process or any variance between the information, certificate or process and the evidence adduced at trial unless it is shown that objection was taken at the trial and that, in the case of a variance, an adjournment of the trial was refused notwithstanding that the variance had misled the appellant. Appeal based on defect in information or process

(2) Where an appeal is based on a defect in a conviction or an order, judgment shall not be given in favour of the appellant, but the court shall make an order curing the defect. Idem

108. Where a court exercises any of the powers conferred by sections 100 to 107, it may make any order, in addition, that justice requires. Additional orders

109.—(1) Where a court orders a new trial, it shall be held in a provincial offences court presided over by a justice other than the justice who tried the defendant in the first instance unless the appeal court directs that the new trial be held before the justice who tried the defendant in the first instance. New trial

(2) Where a court orders a new trial, it may make such order for the release or detention of the appellant pending such trial as may be made by a justice under subsection 2 of section 134 and the order may be enforced in the same manner as if it had been made by a justice under that subsection. Order for release

110.—(1) Where, because of the condition of the record of the trial in the trial court or for any other reason, the court, upon application of the appellant or respondent, is of the opinion that the interests of justice would be better served by hearing and determining the appeal by holding a new trial in the court, the court may order that the appeal Trial *denovo*

shall be heard by way of a new trial in the court in accordance with the rules, and for this purpose this Act applies, with necessary modifications, in the same manner as to a proceeding in a provincial offences court.

Evidence

(2) The court may, for the purpose of hearing and determining an appeal under subsection 1, permit the evidence of any witness taken before the trial court to be read if that evidence has been authenticated and if,

- (a) the appellant and respondent consent;
- (b) the court is satisfied that the attendance of the witness cannot reasonably be obtained; or
- (c) by reason of the formal nature of the evidence or otherwise the court is satisfied that the opposite party will not be prejudiced,

and any evidence that is read under the authority of this subsection has the same force and effect as if the witness had given the evidence before the court.

Dismissal or abandonment

111. The court may, upon proof that notice of an appeal has been given and that,

- (a) the appellant has failed to comply with any order made under section 94 or 95 or with the conditions of any recognizance entered into under either of those sections; or
- (b) the appeal has not been proceeded with or has been abandoned,

order that the appeal be dismissed.

Costs

112.—(1) Where an appeal is heard and determined or is abandoned or is dismissed for want of prosecution, the court may make any order with respect to costs that it considers just and reasonable.

Payment

(2) Where the court orders the appellant or respondent to pay costs, the order shall direct that the costs be paid to the clerk of the trial court, to be paid by him to the person entitled to them, and shall fix the period within which the costs shall be paid.

Enforcement

(3) Costs ordered to be paid under this section by a person other than a prosecutor acting on behalf of the Crown shall

be deemed to be a fine for the purpose of enforcing its payment.

113. An order or judgment of the appeal court shall be implemented or enforced by the trial court and the clerk of the appeal court shall send to the clerk of the trial court the order and all writings relating thereto. Implementation of appeal court order

114.—(1) A defendant or the prosecutor or the Attorney General by way of intervention may appeal from the judgment of the court to the Court of Appeal, with leave of a justice of appeal on special grounds, upon any question of law alone or as to sentence in accordance with the rules made under section 123. Appeal to Court of Appeal

(2) No leave to appeal shall be granted under subsection 1 unless the justice of appeal considers that in the particular circumstances of the case it is essential in the public interest or for the due administration of justice that leave be granted. Grounds for leave

115. A defendant who appeals shall, if he is in custody, remain in custody, but a judge may order his release upon any of the conditions set out in subsection 2 of section 134. Custody pending appeal

116. Where an application for leave to appeal is made, the Registrar of the Court of Appeal shall notify the clerk of the court appealed from of the application and, upon receipt of the notification, the clerk of the court shall transmit to the Registrar all the material forming the record including any other relevant material requested by a justice of appeal. Transfer of record

117. Sections 98, 100, 101, 102, 103, 104, 105, 106, 107, 108 and 109, clause *b* of section 111 and section 112 apply, with necessary modifications, to appeals to the Court of Appeal under section 114. Application of ss. 98, 100-109, 111 (b), 112

APPEALS UNDER PARTS I AND II

118.—(1) A defendant or the prosecutor or the Attorney General by way of intervention is entitled to appeal an acquittal, conviction or sentence in a proceeding commenced by certificate under Part I or II and the appeal shall be to the provincial court (criminal division) of the county or district in which the adjudication was made. Appeal

(2) A notice of appeal shall be in the prescribed form and shall state the reasons why the appeal is taken and shall be filed with the clerk of the provincial court (criminal division) Application for appeal

within fifteen days after the making of the decision appealed from, in accordance with the rules.

Notice of
hearing

(3) The clerk shall, as soon as is practicable, give a notice to the defendant and prosecutor of the time and place of the hearing of the appeal.

Conduct
of appeal

119.—(1) Upon an appeal, the court shall give the parties an opportunity to be heard for the purpose of determining the issues and may, where the circumstances warrant it, make such inquiries as are necessary to ensure that the issues are fully and effectively defined.

Review

(2) An appeal shall be conducted by means of a review in the provincial court (criminal division) of the county or district in which the adjudication was made.

Evidence

(3) In determining a review, the court may,

- (a) hear or rehear the recorded evidence or any part thereof and may require any party to provide a transcript of the evidence, or any part thereof, or to produce any further exhibit;
- (b) receive the evidence of any witness whether or not the witness gave evidence at the trial;
- (c) require the justice presiding at the trial to report in writing on any matter specified in the request; or
- (d) receive and act upon statements of agreed facts or admissions.

Dismissal
on abandon-
ment

120. Where an appeal has not been proceeded with or abandoned, the court may order that the appeal be dismissed.

Powers of
court on
appeal

121.—(1) Upon an appeal, the court may affirm, reverse or vary the decision appealed from or where, in the opinion of the court, it is necessary to do so to satisfy the ends of justice, direct a new trial.

New trial

(2) Where the court directs a new trial, it shall be held in the provincial offences court presided over by a justice other than the justice who tried the defendant in the first instance, but the appeal court may, with the consent of the parties to the appeal, direct that the new trial be held before the justice who tried the defendant in the first instance or before the judge who directs the new trial.

(3) Upon an appeal, the court may make an order under section 61 for the payment of costs incurred on the appeal, and subsection 3 thereof applies to the order in the same manner as to an order of a provincial offences court. Costs

122.—(1) An appeal lies from the judgment of the provincial court (criminal division) to the Court of Appeal, with leave of a justice of appeal, on special grounds, upon any question of law alone in accordance with the rules made under section 123. Appeal to Court of Appeal

(2) No leave to appeal shall be granted under subsection 1 unless the justice of appeal considers that in the particular circumstances of the case it is essential in the public interest or for the due administration of justice that leave be granted. Grounds for leave

(3) Upon an appeal under this section, the Court of Appeal may make any order with respect to costs that it considers just and reasonable. Costs

RULES FOR APPEALS

123. The Lieutenant Governor in Council may make rules of court not inconsistent with this or any other Act for the conduct of and governing practices and procedures on appeals in the provincial courts (criminal division), the county and district courts and the Court of Appeal under this Act, and respecting any matter arising from or incidental to such appeals. Rules of court for appeals

REVIEW

124.—(1) Upon an application by way of originating notice, the High Court may by order grant any relief in respect of matters arising under this Act that the applicant would be entitled to in proceedings by way of an application for an order in the nature of mandamus, prohibition or *certiorari*. Application for relief in nature of mandamus, prohibition, certiorari

(2) Notice of an application under this section shall be served on, Notice of application

(a) the person whose act or omission gives rise to the application;

(b) any person who is a party to a proceeding that gives rise to the application; and

(c) the Attorney General.

Appeal

(3) An appeal lies to the Court of Appeal from an order made under this section.

Notice re
certiorari

125.—(1) A notice under section 124 in respect of an application for relief in the nature of *certiorari* shall be given at least seven days and not more than ten days before the date fixed for the hearing of the application and the notice shall be served within thirty days after the occurrence of the act sought to be quashed.

Filing
material

(2) Where a notice referred to in subsection 1 is served on the person making the decision, order or warrant or holding the proceeding giving rise to the application, such person shall forthwith file in the High Court for use on the application, all material concerning the subject-matter of the application.

Where
appeal
available

(3) No application shall be made to quash a conviction, order or ruling from which an appeal is provided by this Act, whether subject to leave or otherwise.

Substantial
wrong

(4) On an application for relief in the nature of *certiorari*, the High Court shall not grant relief unless the court finds that a substantial wrong or miscarriage of justice has occurred, and the court may amend or validate any decision already made, with effect from such time and on such terms as the court considers proper.

Order for
immunity
from civil
liability

(5) Where an application is made to quash a decision, order, warrant or proceeding made or held by a justice on the ground that he exceeded his jurisdiction, the High Court may, in quashing the decision, order, warrant or proceeding, order that no civil proceeding shall be taken against the justice or against any officer who acted under the decision, order or warrant or in the proceeding or under any warrant issued to enforce it.

Application
for *habeas*
corpus

126.—(1) Upon an application by way of originating notice, the High Court may by order grant any relief in respect of a matter arising under this Act that the applicant would be entitled to in proceedings by way of an application for an order in the nature of *habeas corpus*.

Procedure on
application
for relief
in nature of
habeas corpus

(2) Notice of an application under subsection 1 for relief in the nature of *habeas corpus* shall be served upon the person having custody of the person in respect of whom the application is made and upon the Attorney General and upon the

hearing of the application the presence before the High Court of the person in respect of whom the application was made may be dispensed with by consent, in which event the High Court may proceed to dispose of the matter forthwith as the justice of the case requires.

(3) Subject to subsections 1 and 2, *The Habeas Corpus Act* applies to applications under this section, but an application for relief in the nature of *certiorari* may be brought in aid of an application under this section. Application of R.S.O. 1970, c. 197

(4) *The Judicial Review Procedure Act, 1971* and sections 69 and 70 of *The Judicature Act* do not apply to matters in respect of which an application may be made under section 124. 1971, c. 48 and R.S.O. 1970, c. 228, ss. 69, 70 do not apply

(5) A court to which an application or appeal is made under section 124 or this section may make any order with respect to costs that it considers just and reasonable. Costs

PART VII

ARREST, BAIL AND SEARCH WARRANTS

Arrest

127. In this Part, “officer in charge” means the police officer who is in charge of the lock-up or other place to which a person is taken after his arrest. Officer in charge

128.—(1) A warrant for the arrest of a person shall be executed by a police officer by arresting the person against whom the warrant is directed wherever he is found in Ontario. Execution of warrant

(2) A police officer may arrest without warrant a person for whose arrest he has reasonable and probable grounds to believe that a warrant is in force in Ontario. Idem

129. Any person may arrest without warrant a person who he has reasonable and probable grounds to believe has committed an offence and is escaping from and freshly pursued by a police officer who has lawful authority to arrest that person, and, where the person who makes the arrest is not a police officer, shall forthwith deliver the person arrested to a police officer. Arrest without warrant

130.—(1) Every police officer is, if he acts on reasonable and probable grounds, justified in using as much force as is necessary to do what he is required or authorized by law to do. Use of force

Use of force
by citizen

(2) Every person upon whom a police officer calls for assistance is justified in using as much force as he believes on reasonable and probable grounds is necessary to render such assistance.

Immunity
from civil
liability

131. Where a person is wrongfully arrested, whether with or without a warrant, no action for damages shall be brought,

- (a) against the police officer making the arrest if he believed in good faith and on reasonable and probable grounds that the person arrested was the person named in the warrant or was subject to arrest without warrant under the authority of an Act;
- (b) against any person called upon to assist the police officer if such person believed that the police officer had the right to effect the arrest; or
- (c) against any person required to detain the prisoner in custody if such person believes the arrest was lawfully made.

Production
of process

132.—(1) It is the duty of every one who executes a process or warrant to have it with him, where it is feasible to do so, and to produce it when requested to do so.

Notice of
reason for
arrest

(2) It is the duty of every one who arrests a person, whether with or without warrant, to give notice to that person, where it is feasible to do so, of the reason for the arrest.

Bail

Release
after
arrest
by
officer

133.—(1) Where a police officer acting under a warrant or other power of arrest, arrests a person, the police officer shall, as soon as is practicable, release the person from custody after serving him with a summons or offence notice unless he has reasonable and probable grounds to believe that,

- (a) it is necessary in the public interest for the person to be detained, having regard to all the circumstances including the need to,
 - (i) establish the identity of the person,
 - (ii) secure or preserve evidence of or relating to the offence, or

(iii) prevent the continuation or repetition of the offence or the commission of another offence;
or

(b) the person arrested is ordinarily resident outside Ontario and will not respond to a summons or offence notice.

(2) Where a defendant is not released from custody under subsection 1, the police officer shall deliver him to the officer ^{Release by officer in charge} in charge who shall, where in his opinion the conditions set out in clauses *a* and *b* of subsection 1 do not or no longer exist, release the defendant,

(a) upon serving him with a summons or offence notice;

(b) upon his entering into a recognizance in the prescribed form without sureties conditioned for his appearance in court.

(3) Where the defendant is held for the reason only that he is not ordinarily resident in Ontario and it is believed that he will not respond to a summons or offence notice, ^{Cash bail by non-resident} the officer in charge may, in addition to anything required under subsection 2, require the defendant to deposit cash or other satisfactory negotiable security in an amount not to exceed,

(a) where the proceeding is commenced by certificate under Part I or II, the amount of the set fine for the offence or, if none, \$300; or

(b) where the proceeding is commenced by information under Part III, \$500.

134.—(1) Where a defendant is not released from custody under section 133, the officer in charge shall, as soon as is practicable but in any event within twenty-four hours, bring him before a justice and the justice shall, unless a plea of guilty is taken, order that the defendant be released upon giving his undertaking to appear unless the prosecutor having been given an opportunity to do so shows cause why the detention of the defendant is justified to ensure his appearance in court or why an order under subsection 2 is justified for the same purpose. ^{Person in custody to be brought before justice}

(2) Subject to subsection 1, the justice may order the release of the defendant, ^{Order for conditional release}

- (a) upon his entering into a recognizance to appear with such conditions as are appropriate to ensure his appearance in court;
- (b) where the offence is one punishable by imprisonment for twelve months or more, conditional upon his entering into a recognizance before a justice with sureties in such amount and with such conditions, if any, as are appropriate to ensure his appearance in court or, with the consent of the prosecutor, upon his depositing with the justice such sum of money or other valuable security as the order directs in an amount not exceeding,
 - (i) where the proceeding is commenced by certificate under Part I or II, the amount of the set fine for the offence or, if none, \$300, or
 - (ii) where the proceeding is commenced by information under Part III, \$1,000; or
- (c) if the defendant is not ordinarily resident in Ontario, upon his entering into a recognizance before a justice, with or without sureties, in such amount and with such conditions, if any, as are appropriate to ensure his appearance in court, and depositing with the justice such sum of money or other valuable security as the order directs in an amount not exceeding,
 - (i) where the proceeding is commenced by certificate under Part I or II, the amount of the set fine for the offence or if none, \$300, or
 - (ii) where the proceeding is commenced by information under Part III, \$1,000.

Idem

(3) The justice shall not make an order under clause *b* or *c* of subsection 2 unless the prosecutor shows cause why an order under the immediately preceding clause should not be made.

Order for detention

(4) Where the prosecutor shows cause why the detention of the defendant in custody is justified to ensure his appearance in court, the justice shall order the defendant to be detained in custody until he is dealt with according to law.

Reasons

(5) The justice shall include in the record a statement of his reasons for his decision under subsection 1, 2 or 4.

Evidence at hearing

(6) In a proceeding under subsection 1, the justice may receive and base his decision upon information he considers

credible or trustworthy in the circumstances of each case except that the defendant shall not be examined or cross-examined in respect of the offence with which he is charged.

(7) A proceeding under subsection 1 shall not be adjourned for more than three days without the consent of the defendant. Adjournments

135.—(1) Where a defendant is not released from custody under section 133 or 134, he shall be brought before the court forthwith and, in any event, within eight days. Expediting trial of person in custody



(2) The justice presiding upon any appearance of the defendant in court may, upon the application of the defendant or prosecutor, review any order made under section 134 and make such further or other order under section 134 as to him seems appropriate in the circumstances. Further orders

136. A defendant or the prosecutor may appeal from an order or refusal to make an order under section 134 or 135 and the appeal shall be to the county or district court of the county or district in which the adjudication was made and shall be conducted in accordance with the rules made under section 123. Appeal

137.—(1) A person who is released upon deposit under subsection 3 of section 133 or clause c of subsection 2 of section 134 may appoint the clerk of the court to act as his agent, in the event that he does not appear to answer to the charge, for the purpose of entering a plea of guilty on his behalf and authorizing the clerk to apply the amount so deposited toward payment of the fine and costs imposed by the court upon the conviction, and the clerk shall act as agent under this subsection without fee. Appointment of agent for appearance

(2) An officer in charge or justice who takes a recognizance, money or security under section 133 or 134 shall make a return thereof to the court where the defendant is required to appear. Returns to court

(3) The clerk of the court shall, upon the conclusion of proceedings, make a financial return to every person who deposited money or security under a recognizance and return the surplus, if any. Returns to sureties

 **138.**—(1) The recognizance of a person to appear in a proceeding binds the person and his sureties in respect of all appearances required in the proceeding at times and places to which the proceeding is adjourned. Recognizance binds for all appearances 

Recognizance binds independently of other charges

(2) A recognizance is binding in respect of appearances for the offence to which it relates and is not vacated upon the arrest, discharge or conviction of the defendant upon another charge.

Liability of principal

(3) The principal to a recognizance is bound for the amount of the recognizance due upon forfeiture.

Liability where sureties

(4) The principal and each surety to a recognizance are bound, jointly and severally, for the amount of the recognizance due upon forfeiture for non-appearance.

Application by surety to be relieved

139.—(1) A surety to a recognizance may, by application in writing to the court at which the defendant is required to appear, apply to be relieved of his obligation under the recognizance and the court shall thereupon issue a warrant for the arrest of the defendant.

Certificate of arrest

(2) When a police officer arrests the defendant under a warrant issued under subsection 1, he shall bring the defendant before a justice under section 134 and certify the arrest by certificate in the prescribed form and deliver the certificate to the court.

Vacating of recognizance

(3) The receipt of the certificate by the court under subsection 2 vacates the recognizance and discharges the sureties.

Delivery of defendant by surety

140. A surety to a recognizance may discharge his obligation under the recognizance by delivering the defendant into the custody of the court at which he is required to appear at any time while it is sitting at or before the trial of the defendant.

Certificate of default

141.—(1) Where a person who is bound by recognizance does not comply with a condition of the recognizance, a justice having knowledge of the facts shall endorse on the recognizance a certificate in the prescribed form setting out,

- (a) the nature of the default;
- (b) the reason for the default, if it is known;
- (c) whether the ends of justice have been defeated or delayed by reason of the default; and
- (d) the names and addresses of the principal and sureties.

Certificate as evidence

(2) A certificate that has been endorsed on a recognizance under subsection 1 is evidence of the default to which it relates.

(3) The clerk of the court shall transmit the endorsed recognizance to the clerk of the county or district court of the same county or district and, upon its receipt, the endorsed recognizance constitutes an application for the forfeiture of the recognizance. ^{Application for forfeiture}

(4) A judge of the county or district court shall fix a time and place for the hearing of the application by the county or district court and the clerk of the county or district court shall, not less than ten days before the time fixed for the hearing, deliver notice to the prosecutor and to each principal and, where the application is for forfeiture for non-appearance, each surety named in the recognizance, of the time and place fixed for the hearing and requiring each principal and surety to show cause why the recognizance should not be forfeited. ^{Notice of hearing}

(5) The county or district court may, after giving the parties an opportunity to be heard, in its discretion grant or refuse the application and make any order in respect of the forfeiture of the recognizance that the court considers proper. ^{Order as to forfeiture}

(6) Where an order for forfeiture is made under subsection 5, ^{Collection on forfeiture}

(a) any money or security forfeited shall be paid over by the person who has custody of it to the person who is entitled by law to receive it; and

(b) the principal and surety become judgment debtors of the Crown jointly and severally in the amount forfeited under the recognizance and the amount may be collected in the same manner as money owing under a judgment of the county or district court.

Search Warrants

142.—(1) Where a justice is satisfied by information upon oath that there is reasonable ground to believe that there is in any building, receptacle or place, ^{Search warrant}

(a) anything upon or in respect of which an offence has been or is suspected to have been committed; or

(b) anything that there is reasonable ground to believe will afford evidence as to the commission of an offence,

he may at any time issue a warrant in the prescribed form under his hand authorizing a police officer or person named

therein to search such building, receptacle or place for any such thing, and to seize and carry it before the justice issuing the warrant or another justice in the county or district in which the provincial offences court having jurisdiction in respect of the offence is situated to be dealt with by him according to law.

Expiration

(2) Every search warrant shall name a date upon which it expires, which date shall be not later than fifteen days after its issue.

When to be executed

(3) Every search warrant shall be executed between 6 a.m. and 9 p.m. standard time, unless the justice by the warrant otherwise authorizes.

Detention of things seized

143.—(1) Where any thing is seized and brought before a justice, he shall by order,

(a) detain it or direct it to be detained in the care of a person named in the order; or

(b) direct it to be returned,

and the justice may in the order authorize the examination, testing, inspection or reproduction of the thing seized upon such conditions as are reasonably necessary and directed in the order, and may make any other provision as in the opinion of the justice is necessary for its preservation.

Time limit for detention

(2) Nothing shall be detained under an order made under subsection 1 for a period of more than three months after the time of seizure unless, before the expiration of that period,

(a) upon application, a justice is satisfied that having regard to the nature of the investigation, its further detention for a specified period is warranted and he so orders; or

(b) proceedings are instituted in which the thing detained may be required.

Application for examination and copying

(3) Upon the application of the defendant, prosecutor or person having an interest in a thing detained under subsection 1, a justice may make an order for the examination, testing, inspection or reproduction of any thing detained upon such conditions as are reasonably necessary and directed in the order.

Application for release

(4) Upon the application of a person having an interest in a thing detained under subsection 1, and upon notice to the

defendant, the person from whom the thing was seized, the person to whom the search warrant was issued and any other person who has an apparent interest in the thing detained, a justice may make an order for the release of any thing detained to the person from whom the thing was seized where it appears that the thing detained is no longer necessary for the purpose of an investigation or proceeding.

(5) Where an order or refusal to make an order under subsection 3 or 4 is made by a justice of the peace, an appeal lies therefrom in the same manner as an appeal from a conviction in a proceeding commenced by means of a certificate. Appeal where order by justice of the peace

144.—(1) Where under a search warrant a person is about to examine or seize a document that is in the possession of a lawyer and a solicitor-client privilege is claimed on behalf of a named client in respect of the document, the person shall, without examining or making copies of the document, Examination or seizure of documents where privilege claimed

- (a) seize the document and place it, together with any other document seized in respect of which the same claim is made on behalf of the same client, in a package and seal and identify the package; and
- (b) place the package in the custody of the clerk of the court in the jurisdiction of which the seizure was made or, with the consent of the person and the client, in the custody of another person.



(2) No person shall examine or seize a document that is in the possession of a lawyer without giving him a reasonable opportunity to claim the privilege under subsection 1. Opportunity to claim privilege

(3) A judge may, upon the *ex parte* application of the lawyer, by order authorize the lawyer to examine or make a copy of the document in the presence of its custodian or the judge, and the order shall contain such provisions as are necessary to ensure that the document is repackaged and resealed without alteration or damage. Examination of documents in custody

(4) Where a document has been seized and placed in custody under subsection 1, the client by or on whose behalf the claim of solicitor-client privilege is made may apply to a judge for an order sustaining the privilege and for the return of the document. Application to determine privilege

(5) An application under subsection 4 shall be by notice of motion returnable not later than thirty days after the date on which the document was placed in custody. Limitation

Attorney
General
a party

(6) The person who seized the document and the Attorney General are parties to an application under subsection 4 and entitled to at least three days notice thereof.

Private
hearing and
scrutiny by
judge

(7) An application under subsection 4 shall be heard in private, and, for the purposes of the hearing, the judge may examine the document and, if he does so, shall cause it to be resealed.

Order

(8) The judge may, by order,

(a) declare that the solicitor-client privilege exists or does not exist in respect of the document;

(b) direct that the document be delivered up to the appropriate person.

Release of
document
where no
application
under subs. 4

(9) Where it appears to a judge upon the application of the Attorney General or person who seized the document that no application has been made under subsection 4 within the time limit prescribed by subsection 5, the judge shall order that the document be delivered to the applicant.

PART VIII

ORDERS ON APPLICATION UNDER STATUTES

Orders
under
statutes

145. Where, by any other Act, proceedings are authorized to be taken before a court or a justice for an order, including an order for the payment of money, this Act applies, with necessary modifications, to the proceeding in the same manner as to a proceeding commenced under Part III, and for the purpose,

(a) in place of an information, the applicant shall complete a statement in the prescribed form under oath attesting, on reasonable and probable grounds, to the existence of facts that would justify the order sought; and

(b) in place of a plea, the defendant shall be asked whether or not he wishes to dispute the making of the order.

PART IX

COMMENCEMENT AND TRANSITION

146.—(1) This Act, except Parts I and II, applies to ^{Application} offences in respect of which proceedings are commenced after this Act comes into force.

(2) Part I and Part II each applies to offences occurring ^{Idem} after that Part comes into force.

147.—(1) Subject to subsections 2 and 3, the following ^{Repeals} are repealed:

1. *The Summary Convictions Act*, being chapter 450 of the Revised Statutes of Ontario, 1970.
2. *The Summary Convictions Amendment Act, 1971*, being chapter 10.

(2) The enactments repealed by subsection 1 continue in ^{Transition} force in respect of offences to which this Act does not apply.

(3) If subsection 1 comes into force before Part II comes ^{Application of subs. 1 to parking infractions} into force, the enactments repealed by subsection 1 continue to apply in respect of parking infractions.

148.—(1) A reference in any Act, regulation or by-law to ^{Reference to R.S.O. 1970, c. 450} *The Summary Convictions Act* shall be deemed to be a reference to this Act.

(2) A reference in any Act, regulation or by-law to ^{References to summary conviction} proceeding by summary conviction shall be deemed to refer to the procedures under this Act.

149. This Act comes into force on a day to be named by ^{Commence-ment} proclamation of the Lieutenant Governor.

150. The short title of this Act is *The Provincial Offences* ^{Short title} *Act, 1979.*



An Act to establish a Code of
Procedure for Provincial Offences

1st Reading

March 6th, 1979

2nd Reading

March 6th, 1979

3rd Reading

THE HON. R. McMURTRY
Attorney General and Solicitor General

(Reprinted as amended by the
Administration of Justice Committee)

BILL 74

3RD SESSION, 31ST LEGISLATURE, ONTARIO
28 ELIZABETH II, 1979

**An Act to establish a Code of Procedure for
Provincial Offences**

THE HON. R. MCMURTRY
Attorney General



TORONTO

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An Act to establish a Code of Procedure for Provincial Offences

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

INTERPRETATION

1.—(1) In this Act,

Interpre-
tation

- (a) “certificate” means a certificate of offence issued under Part I or a certificate of parking infraction issued under Part II;
- (b) “court” means a provincial offences court or, where jurisdiction in respect of the offence is conferred upon a provincial court (family division) by any other Act, the provincial court (family division);
- (c) “judge” means a provincial judge;
- (d) “justice” means a provincial judge or a justice of the peace;
- (e) “offence” means an offence under an Act of the Legislature or under a regulation or by-law made under the authority of an Act of the Legislature;
- (f) “police officer” means a chief of police or other police officer or constable but does not include a special constable or by-law enforcement officer;
- (g) “prescribed” means prescribed by the rules of the provincial offences courts;
- (h) “prosecutor” means the Attorney General or, where the Attorney General does not intervene, means the person who issues a certificate or lays an information and includes counsel or agent acting on behalf of either of them;
- (i) “provincial offences officer” means a police officer or a person designated under subsection 2;

(j) "set fine" means the amount of fine set by the court for an offence for the purpose of proceedings commenced under Part I or II.

Designation
of pro-
vincial
offences
officers

(2) A minister of the Crown may designate in writing any person or class of persons as a provincial offences officer for the purposes of all or any class of offences.

Purpose of
Act

R.S.C. 1970,
c. C-34

2.—(1) The purpose of this Act is to replace the summary conviction procedure for the prosecution of provincial offences, including the provisions adopted by reference to the *Criminal Code* (Canada), with a new procedure that reflects the distinction between provincial offences and criminal offences.

Interpre-
tation

(2) Where, as an aid to the interpretation of provisions of this Act, recourse is had to the judicial interpretation of and practices under corresponding provisions of the *Criminal Code* (Canada), any variation in wording without change in substance shall not, in itself, be construed to intend a change of meaning.

PART I

COMMENCEMENT OF PROCEEDINGS BY CERTIFICATE OF OFFENCE

Certificate
of offence

3.—(1) In addition to the procedure set out in Part III for commencing a proceeding by laying an information, a proceeding in respect of an offence may be commenced by filing a certificate of offence alleging the offence in the office of the court named therein.

Issuance
and service

(2) A provincial offences officer who believes that one or more persons have committed an offence may issue, by completing and signing, a certificate of offence certifying that an offence has been committed and,

(a) an offence notice indicating the set fine for the offence;
or

(b) a summons,

in the form prescribed under section 13.

Service

(3) The offence notice or summons shall be served personally upon the person charged within thirty days after the alleged offence occurred.

Signature

(4) Upon the service of an offence notice or summons, the person charged shall be requested to sign the certificate of offence, but the failure or refusal to sign as requested does not invalidate the certificate of offence or the service of the offence notice or summons.

(5) Where service is made by the provincial offences officer who issued the certificate of offence, he shall certify on the certificate of offence that he personally served the offence notice or summons on the person charged and the date of service. Certificate of service

(6) Where service is made by a person other than the provincial offences officer who issued the certificate of offence, he shall complete an affidavit of service in the prescribed form. Affidavit of service

(7) A certificate of service of an offence notice or summons purporting to be signed by the provincial offences officer issuing it or an affidavit of service under subsection 6 shall be received in evidence and is proof of personal service in the absence of evidence to the contrary. Certificate as evidence

(8) The provincial offences officer who serves an offence notice or summons under this section shall not receive payment of any money in respect of a fine, or receive the offence notice for delivery to the court. Officer not to act as agent

4. A certificate of offence shall be filed in the office of the court named therein as soon as is practicable after service of the offence notice or summons. Filing of certificate of offence

5.—(1) Where an offence notice is served on a defendant, he may plead not guilty by signing the not guilty plea on the offence notice and indicate his desire in the form prescribed on the notice to appear or be represented at a trial and deliver the offence notice to the office of the court specified in the notice. Dispute with trial

(2) Where an offence notice is received under subsection 1, the clerk of the court shall, as soon as is practicable, give notice to the defendant and prosecutor of the time and place of the trial. Notice of trial

6.—(1) Where an offence notice is served on a defendant whose address as shown on the certificate of offence is outside the territorial jurisdiction of the court specified in the notice, and he wishes to dispute the charge but does not wish to attend or be represented at a trial, he may do so by signifying his intention on the offence notice and delivering the offence notice to the office of the court specified in the notice together with a written dispute setting out with reasonable particularity his dispute and any facts upon which he relies. Dispute without appearance

(2) Where an offence notice is delivered under subsection 1, a justice shall, in the absence of the defendant, consider the dispute and, Disposition

- (a) where the dispute raises an issue that may constitute a defence, direct a hearing; or
- (b) where the dispute does not raise an issue that may constitute a defence, convict the defendant and impose the set fine.

Hearing

(3) Where the justice directs a hearing under subsection 2, the court shall hold the hearing and shall, in the absence of the defendant, consider the evidence in the light of the issues raised in the dispute, and acquit the defendant or convict the defendant and impose the set fine or such lesser fine as is permitted by law.

Application of section

(4) This section applies in such part or parts of Ontario as are prescribed by the regulations.

Plea of guilty with representations

7.—(1) Where an offence notice is served on a defendant and he does not wish to dispute the charge but wishes to make submissions as to penalty, including the extension of time for payment, he may attend at the time and place specified in the notice and may appear before a justice sitting in court for the purpose of pleading guilty to the offence and making submissions as to penalty, and the justice may enter a conviction and impose the set fine or such lesser fine as is permitted by law.

Submissions under oath

(2) The justice may require submissions under subsection 1 to be made under oath, orally or by affidavit.

Payment out of court

8.—(1) Where an offence notice is served on a defendant and he does not wish to dispute the charge, he may sign the plea of guilty on the offence notice and deliver the offence notice and amount of the set fine to the office of the court specified in the notice.

Conviction

(2) Acceptance by the court office of payment under subsection 1 constitutes a plea of guilty whether or not the plea is signed and endorsement of payment on the certificate of offence constitutes the conviction and imposition of a fine in the amount of the set fine for the offence.

Failure to respond to offence notice

9. Where at least fifteen days have elapsed after the defendant was served with the offence notice and the offence notice has not been delivered in accordance with section 6 or 8 and a plea of guilty has not been accepted under section 7, the defendant shall be deemed to not wish to dispute the charge and a justice shall examine the certificate of offence and,

- (a) where the certificate of offence is complete and regular on its face, he shall enter a conviction in the defendant's absence and without a hearing and impose the set fine for the offence; or
- (b) where the certificate of offence is not complete and regular on its face, he shall quash the proceeding.

10. A signature affixed to the form of plea of guilty or not guilty on an offence notice, purporting to be that of the defendant, is *prima facie* proof that it is the signature of that person. Signature on plea

11.—(1) Where the defendant has not had an opportunity to dispute the charge or to appear or be represented at a hearing for the reason that through no fault of his own the delivery of a necessary notice or document failed to occur in fact, and where not more than fifteen days have elapsed since the conviction first came to the attention of the defendant, the defendant may attend at the court office during regular office hours and may appear before a justice and the justice, upon being satisfied by affidavit in the prescribed form of such facts, shall strike out the conviction, if any, and give the person appearing a notice of trial under section 5 or proceed under section 7. Reopening on failure of notice

(2) Where a conviction is struck out under subsection 1, the justice shall give the defendant a certificate of the fact in the prescribed form. Certificate of striking out conviction

12.—(1) Where the penalty prescribed for an offence includes a fine of more than \$300 or imprisonment and proceedings are taken under this Part, the provision for fine or imprisonment does not apply and in lieu thereof the offence is punishable by a fine of not more than the maximum fine prescribed for the offence or \$300, whichever is the lesser. Penalty

(2) Where a person is convicted of an offence in a proceeding initiated by an offence notice, Other consequences of conviction

- (a) a provision in or under any other Act that provides for an action or result following upon a conviction of an offence does not apply to the conviction, except,
 - (i) for the purpose of carrying out the sentence imposed,

(ii) for the purpose of recording and proving the conviction,

R.S.O. 1970,
c. 202

(iii) for the purposes of the demerit point system under *The Highway Traffic Act*, and

(iv) for the purposes of section 27 of *The Highway Traffic Act*; and

(b) any thing seized in connection with the offence after the service of the offence notice is not liable to forfeiture.

Regula-
tions

13.—(1) The Lieutenant Governor in Council may make regulations,

(a) prescribing the form of certificates of offence, offence notices and summonses and such other forms as are considered necessary under this Part;

(b) authorizing the use in a form prescribed under clause *a* of any word or expression to designate an offence;

(c) respecting any matter that is considered necessary to provide for the use of the forms under this Part.

Sufficiency
of
abbreviated
wording

(2) The use on a form prescribed under clause *a* of subsection 1 of any word or expression authorized by the regulations to designate an offence is sufficient for all purposes to describe the offence designated by such word or expression.

Idem

(3) Where the regulations do not authorize the use of a word or expression to describe an offence in a form prescribed under clause *a* of subsection 1, the offence may be described in accordance with section 26.

PART II

COMMENCEMENT OF PROCEEDINGS FOR PARKING INFRACTIONS

Interpre-
tation

14. In this Part, "parking infraction" means any unlawful parking, standing or stopping of a vehicle that constitutes an offence.

Date
applicable
to infractions
under
municipal
by-laws

15.—(1) Subject to subsection 2, this Part does not apply in respect of parking infractions under by-laws of municipalities until a date two years after this Part comes into force.

(2) Subject to the approval of the Lieutenant Governor in ^{Idem} Council, the council of a municipality, including a regional, district or metropolitan municipality, may by by-law declare that this Part applies in respect of parking infractions under by-laws in the municipality on a date earlier than the date determined under subsection 1.

16.—(1) In addition to the procedure set out in Part III for commencing a proceeding by laying an information, a ^{Certificate of parking infraction and notice} proceeding in respect of a parking infraction may be commenced by filing a certificate of the parking infraction in the office of the court named therein, within thirty days after the alleged offence occurred.

(2) A provincial offences officer who believes from his ^{Issuance and notice} personal knowledge that one or more persons have committed a parking infraction may issue, by completing and signing,

- (a) a certificate of parking infraction certifying that a parking infraction has been committed; and
- (b) a parking infraction notice indicating the set fine for the infraction,

in the form prescribed under section 21.

(3) The issuing provincial offences officer may serve the parking infraction notice on the owner of the vehicle identified therein by affixing it to the vehicle in a conspicuous place at the time of the alleged infraction, or delivering it personally to the person having care and control of the vehicle at the time of the alleged infraction. ^{Service of notice on owner}

17.—(1) Where a parking infraction notice is served, the defendant may plead not guilty by signing the not guilty plea on the notice and indicate his desire in the form prescribed on the notice to appear or be represented at a trial and deliver it to the place specified in the notice. ^{Dispute with trial}

(2) Where a parking infraction notice is received under subsection 1, the clerk of the court shall, as soon as is practicable, give notice to the defendant and prosecutor of the time and place of the trial. ^{Notice of trial}

18. Where the defendant does not wish to dispute the charge, he may deliver the notice and amount of the set fine to the place shown on the notice. ^{Payment out of court}

19.—(1) Where at least fifteen days have elapsed after the defendant was served with the parking infraction notice and the parking infraction notice has not been delivered in ^{Failure to respond to parking infraction notice}

accordance with subsection 1 of section 17, the defendant shall be deemed to not wish to dispute the charge and a justice shall examine the certificate of parking infraction and where the justice is satisfied,

- (a) that the certificate of parking infraction is complete and regular on its face;
- (b) where the defendant is liable as owner, that he is the owner; and
- (c) that payment has not been made under section 18,

the justice shall enter a conviction in the defendant's absence and without a hearing and impose the set fine for the offence.

Quashing
proceeding

(2) Where the justice is not able to enter a conviction under subsection 1, he shall quash the proceeding.

Notice of
fine

(3) The clerk of the court shall give notice to the person against whom a conviction is entered under subsection 1 of the date and place of the infraction, the date of the conviction and the amount of the fine, and the fine or any part of the fine not paid within fifteen days after the giving of the notice shall be deemed to be in default.

Reopening
on failure
of notice

20. Where the defendant has not had an opportunity to dispute the charge or appear or be represented at a hearing for the reason that, through no fault of his own, the delivery of a necessary notice or document failed to occur in fact, and where not more than fifteen days have elapsed since the conviction first came to the attention of the defendant, the defendant may attend at the court office during regular office hours and may appear before a justice and the justice, upon being satisfied by affidavit in the prescribed form of such facts, shall strike out the conviction, if any, and give the person appearing a notice of trial under subsection 2 of section 17 or accept a plea of guilty under section 18.

Regula-
tions

21.—(1) The Lieutenant Governor in Council may make regulations,

- (a) prescribing the form of certificates of parking infractions and parking infraction notices and such other forms as are considered necessary under this Part;
- (b) authorizing the use in a form prescribed under clause a of any word or expression to designate a parking infraction;

- (c) respecting any matter that is considered necessary to provide for the use of the forms under this Part.

(2) The use on a form prescribed under clause *a* of subsection 1 of any word or expression authorized by the regulations to designate a parking infraction is sufficient for all purposes to describe the infraction designated by such word or expression. Sufficiency of abbreviations

(3) Where the regulations do not authorize the use of a word or expression to describe a parking infraction in a form prescribed under clause *a* of subsection 1, the offence may be described in accordance with section 26. Idem

PART III

COMMENCEMENT OF PROCEEDING BY INFORMATION

22.—(1) In addition to the procedure set out in Parts I and II for commencing a proceeding by the filing of a certificate, a proceeding in respect of an offence may be commenced by laying an information. Commencement of proceeding by information.

(2) Where a summons or offence notice has been served under Part I, no proceeding shall be commenced under subsection 1 in respect of the same offence except with the consent of the Attorney General or his agent. Exception

23. Where a provincial offences officer believes, on reasonable and probable grounds, that an offence has been committed by a person whom he finds at or near the place where the offence was committed, he may, before laying an information, serve the person with a summons in the prescribed form. Summons before information laid

24.—(1) Any person who, on reasonable and probable grounds, believes that one or more persons have committed an offence, may lay an information in the prescribed form and under oath before a justice alleging the offence and the justice shall receive the information. Information

(2) An information may be laid anywhere in Ontario. Idem

25.—(1) A justice who receives an information laid under section 24 shall consider the information and, where he considers it desirable to do so, hear and consider *ex parte* the allegations of the informant and the evidence of witnesses and, Procedure on laying of information

- (a) where he considers that a case for so doing is made out,

- (i) confirm the summons served under section 23, if any,
 - (ii) issue a summons in the prescribed form, or
 - (iii) where the arrest is authorized by statute and where the allegations of the informant or the evidence satisfy the justice on reasonable and probable grounds that it is necessary in the public interest to do so, issue a warrant for the arrest of the defendant; or
- (b) where he considers that a case for issuing process is not made out,
- (i) so endorse the information, and
 - (ii) where a summons was served under section 23, cancel it and cause the defendant to be so notified.

Summons or
warrants
in blank

(2) A justice shall not sign a summons or warrant in blank.

Counts

26.—(1) Each offence charged in an information shall be set out in a separate count.

Allegation
of
offence

(2) Each count in an information shall in general apply to a single transaction and shall contain and is sufficient if it contains in substance a statement that the defendant committed an offence therein specified.

Reference
to
statutory
provision

(3) Where in a count an offence is identified but the count fails to set out one or more of the essential elements of the offence, a reference to the provision creating or defining the offence shall be deemed to incorporate all the essential elements of the offence.

Idem

(4) The statement referred to in subsection 2 may be,

- (a) in popular language without technical averments or allegations of matters that are not essential to be proved;
- (b) in the words of the enactment that describes the offence; or
- (c) in words that are sufficient to give to the defendant notice of the offence with which he is charged.

(5) Any number of counts for any number of offences may be joined in the same information. More than one count

(6) A count shall contain sufficient detail of the circumstances of the alleged offence to give to the defendant reasonable information with respect to the act or omission to be proved against him and to identify the transaction referred to. Particulars of count

(7) No count in an information is insufficient by reason of the absence of details where, in the opinion of the court, the count otherwise fulfils the requirements of this section and, without restricting the generality of the foregoing, no count in an information is insufficient by reason only that, Sufficiency

- (a) it does not name the person affected by the offence or intended or attempted to be affected;
- (b) it does not name the person who owns or has a special property or interest in property mentioned in the count;
- (c) it charges an intent in relation to another person without naming or describing the other person;
- (d) it does not set out any writing that is the subject of the charge;
- (e) it does not set out the words used where words that are alleged to have been used are the subject of the charge;
- (f) it does not specify the means by which the alleged offence was committed;
- (g) it does not name or describe with precision any person, place or thing; or
- (h) it does not, where the consent of a person, official or authority is required before proceedings may be instituted for an offence, state that the consent has been obtained.

(8) A count is not objectionable for the reason only that, Idem

- (a) it charges in the alternative several different matters, acts or omissions that are stated in the alternative in an enactment that describes as an offence the matters, acts or omissions charged in the count; or

(b) it is double or multifarious.

Need to
negative
exception.
etc.

(9) No exception, exemption, proviso, excuse or qualification prescribed by law is required to be set out or negated, as the case may be, in an information.

Summons

27.—(1) A summons issued under section 23 or 25 shall,

- (a) be directed to the defendant;
- (b) set out briefly the offence in respect of which the defendant is charged; and
- (c) require the defendant to attend court at a time and place stated therein and to attend thereafter as required by the court in order to be dealt with according to law.

Service

(2) A summons shall be served by a provincial offences officer by delivering it personally to the person to whom it is directed or if that person cannot conveniently be found, by leaving it for him at his last known or usual place of abode with an inmate thereof who appears to be at least sixteen years of age.

Service
outside
Ontario

(3) Notwithstanding subsection 2, where the person to whom a summons is directed does not reside in Ontario, the summons shall be deemed to have been duly served seven days after it has been sent by registered mail to his last-known or usual place of abode.

Service
on
corporation

(4) Service of a summons on a corporation may be effected by delivering the summons personally,

- (a) in the case of a municipal corporation, to the mayor, warden, reeve or other chief officer of the corporation or to the clerk of the corporation; or
- (b) in the case of any other corporation, to the manager, secretary or other executive officer of the corporation or person apparently in charge of a branch office thereof,

or by mailing the summons by registered mail to the corporation at an address held out by the corporation to be its address, in which case the summons shall be deemed to have been duly served seven days after the day of mailing.

Substi-
tutional
service

(5) A justice, upon application and upon being satisfied that service can not be made effectively on a corporation

in accordance with subsection 4, may by order authorize another method of service that has a reasonable likelihood of coming to the attention of the corporation.

(6) Service of a summons may be proved by statement under oath, written or oral, of the person who made the service. Proof of service

28.—(1) A warrant issued under section 25 shall, Contents of warrant

- (a) name or describe the defendant;
- (b) set out briefly the offence in respect of which the defendant is charged; and
- (c) order that the defendant be forthwith arrested and brought before a justice to be dealt with according to law.

(2) A warrant issued under section 25 remains in force until it is executed and need not be made returnable at any particular time. Idem

PART IV

TRIAL AND SENTENCING

Trial

29. This Part applies to proceedings commenced under this Act. Application of Part

30.—(1) Subject to subsection 2, a proceeding in respect of an offence shall be heard and determined in the provincial offences court in whose territorial jurisdiction the offence occurred. Proper court

(2) A proceeding in respect of an offence may be heard and determined in the provincial offences court having territorial jurisdiction that adjoins that in which the offence occurred if, Idem

- (a) the court holds sittings in a place reasonably proximate to the place where the offence occurred; and
- (b) the court and place of sitting referred to in clause *a* are named in the summons or offence notice.

(3) Where a proceeding is taken in a court other than one referred to in subsection 1 or 2, the court shall order that the proceeding be transferred to the proper court and may where the defendant appears award costs under section 61. Transfer to proper court

Change of
venue

(4) Where, upon the application of a defendant or prosecutor made to the court named in the information or certificate, it appears to the court that,

(a) it would be appropriate in the interests of justice to do so; or

(b) both the defendant and prosecutor consent thereto,

the court may order that the proceeding be transferred to another court in Ontario.

Conditions

(5) The court may, in an order made upon an application by the prosecutor under subsection 3 or 4, prescribe conditions that it thinks proper with respect to the payment of additional expenses caused to the defendant as a result of the change of venue.

Time of
order for
change of
venue

(6) An order under subsection 3 or 4 may be made notwithstanding that any motion preliminary to trial has been disposed of or that the plea has been taken and it may be made at any time before evidence has been heard.

Preliminary
motions

(7) The court to which proceedings are transferred under this section may receive and determine any motion preliminary to trial notwithstanding that the same matter was determined by the court from which the proceeding was transferred.

Delivery of
papers

(8) Where an order is made under subsection 3 or 4, the clerk of the court in which the trial was to be held before the order was made shall deliver any material in his possession in connection with the proceedings forthwith to the clerk of the court before which the trial is ordered to be held, and all proceedings in the case shall be held or, if previously commenced, shall be continued in that court.

Justice
presiding
at trial

31.—(1) The justice presiding when evidence is first taken at the trial shall preside over the whole of the trial.

When
presiding
justice
unable to
act before
adjudica-
tion

(2) Where evidence has been taken at a trial and, before making his adjudication, the presiding justice dies or in his opinion or the opinion of the chief judge of the provincial offences courts is for any reason unable to continue, another justice shall conduct the hearing again as a new trial.

When
presiding
justice
unable to
act after
adjudica-
tion

(3) Where evidence has been taken at a trial and, after making his adjudication but before making his order or imposing sentence, the presiding justice dies or in his opinion or the opinion of the chief judge of the provincial offences

courts is for any reason unable to continue, another justice may make the order or impose the sentence that is authorized by law.

(4) A justice presiding at a trial may, at any stage of the trial and upon the consent of the prosecutor and defendant, order that the trial be conducted by another justice and, upon the order being given, subsection 2 applies as if the justice were unable to act. Consent to change presiding justice

32. The court retains jurisdiction over the information or certificate notwithstanding the failure of the court to exercise its jurisdiction at any particular time or that the provisions of this Act respecting adjournments are not complied with. Retention of jurisdiction

33.—(1) In addition to his right to withdraw a charge, the Attorney General or his agent may stay any proceeding at any time before judgment by direction in court to the clerk of the court in which the proceedings are conducted and thereupon any recognizance relating to the proceeding is vacated. Stay of proceeding

(2) A proceeding stayed under subsection 1 may be recommenced by direction of the Attorney General, the Deputy Attorney General or a Crown attorney to the clerk of the court in which the proceeding was stayed but a proceeding that is stayed shall not be recommenced, Recommencement

(a) later than one year after the stay; or

(b) after the expiration of any limitation period applicable, which shall run as if the proceeding had not been commenced until the commencement,

whichever is the earlier.

34.—(1) A defendant may at any stage of the proceeding apply to the court to amend or to divide a count that, Dividing counts

(a) charges in the alternative different matters, acts or omissions that are stated in the alternative in the enactment that creates or describes the offence; or

(b) is double or multifarious,

on the ground that, as framed, it prejudices him in his defence.

Idem

(2) Upon an application under subsection 2, where the court is satisfied that the ends of justice so require, it may order that a count be amended or divided into two or more counts, and thereupon a formal commencement may be inserted before each of the counts into which it is divided.

Amendment
of
information
or certificate

35.—(1) The court may, at any stage of the proceeding, amend the information or certificate as may be necessary if it appears that the information or certificate,

- (a) fails to state or states defectively anything that is requisite to charge the offence;
- (b) does not negative an exception that should be negatived; or
- (c) is in any way defective in substance or in form.

Idem

(2) The court may, during the trial, amend the information or certificate as may be necessary if the matters to be alleged in the proposed amendment are disclosed by the evidence taken at the trial.

Variances
between
charge and
evidence

(3) A variance between the information or certificate and the evidence taken on the trial is not material with respect to,

- (a) the time when the offence is alleged to have been committed, if it is proved that the information was laid or certificate issued within the prescribed period of limitation; or
- (b) the place where the subject-matter of the proceedings is alleged to have arisen, except in an issue as to the jurisdiction of the court.

Considera-
tions on
amendment

(4) The court shall, in considering whether or not an amendment should be made, consider,

- (a) the evidence taken on the trial, if any;
- (b) the circumstances of the case;
- (c) whether the defendant has been misled or prejudiced in his defence by a variance, error or omission; and
- (d) whether, having regard to the merits of the case, the proposed amendment can be made without injustice being done.

(5) The question whether an order to amend an information or certificate should be granted or refused is a question of law. Amendment. question of law

(6) An order to amend an information or certificate shall be endorsed on the information or certificate as part of the record and the trial shall proceed as if the information or certificate had been originally laid as amended. Endorsement of order to amend

36. The court may, before or during trial, if it is satisfied that it is necessary for a fair trial, order that a particular, further describing any matter relevant to the proceedings, be furnished to the defendant. Particulars

37.—(1) An objection to an information or certificate for a defect apparent on its face shall be taken by motion to quash the information or certificate before the defendant has pleaded, and thereafter only by leave of the court. Motion to quash information or certificate

(2) The court shall not quash an information or certificate unless an amendment or particulars under section 34, 35 or 36 would fail to satisfy the ends of justice. Grounds for quashing

38. Where the information or certificate is amended or particulars are ordered and an adjournment is necessary as a result thereof, the court may make an order under section 61 for costs resulting from the adjournment. Costs on amendment or particulars

39.—(1) The court may, before trial, where it is satisfied that the ends of justice so require, direct that separate counts, informations or certificates be tried together or that persons who are charged separately be tried together. Joinder of counts or defendants

(2) The court may, before or during the trial, where it is satisfied that the ends of justice so require, direct that separate counts, informations or certificates be tried separately or that persons who are charged jointly or being tried together be tried separately. Separate trials

40.—(1) Where a justice is satisfied that a person is able to give material evidence in a proceeding under this Act, the justice may issue a subpoena requiring the person to attend to give evidence and bring with him any writings or things referred to in the subpoena. Issuance of subpoena

(2) A subpoena shall be served and the service shall be proved in the same manner as a summons under section 27. Service

Attend-
ance

(3) A person who is served with a subpoena shall attend at the time and place stated in the subpoena to give evidence and, if required by the subpoena, shall bring with him any writing or other thing that he has in his possession or under his control relating to the subject-matter of the proceedings.

Remaining
in
attendance

(4) A person who is served with a subpoena shall remain in attendance during the hearing and the hearing as resumed after adjournment from time to time unless he is excused from attendance by the presiding justice.

Arrest of
witness

41.—(1) Where a judge is satisfied upon evidence under oath, that a person is able to give material evidence that is necessary in a proceeding under this Act and,

(a) will not attend if a subpoena is served; or

(b) attempts to serve a subpoena have been made and have failed because he is evading service,

the judge may issue a warrant in the prescribed form for the arrest of the person.

Idem

(2) Where a person who has been served with a subpoena to attend to give evidence in a proceeding does not attend or remain in attendance, the court may, if it is established,

(a) that the subpoena has been served; and

(b) that the person is able to give material evidence that is necessary,

issue or cause to be issued a warrant in the prescribed form for the arrest of the person.

Bringing
before
justice

(3) The police officer who arrests a person under a warrant issued under subsection 1 or 2 shall immediately take the person before a justice.

Release on
recogniz-
ance

(4) Unless the justice is satisfied that it is necessary to detain a person in custody to ensure his attendance to give evidence, the justice shall order the person released upon condition that he enter into a recognizance in such amount and with such sureties, if any, as are reasonably necessary to ensure his attendance.

Bringing
before
judge

(5) Where a proceeding under subsection 4 is before a justice of the peace and the person is not released, the justice of the peace shall cause the person to be brought before a judge within two days of his decision.

(6) Where the judge is satisfied that it is necessary to detain the person in custody to ensure his attendance to give evidence, the judge may order that the person be detained in custody to testify at the trial or to have his evidence taken by a commissioner under an order made under subsection 11. Detention

(7) Where the judge does not make an order under subsection 6, he shall order that the person be released upon condition that he enter into a recognizance in such amount and with such sureties, if any, as are reasonably necessary to ensure his attendance. Release on
recogniz-
ance

(8) A person who is ordered to be detained in custody under subsection 6 or is not released in fact under subsection 7 shall not be detained in custody for a period longer than ten days. Maximum
imprison-
ment

(9) A judge, or the justice presiding at a trial, may at any time order the release of a person in custody under this section where he is satisfied that the detention is no longer justified. Release
when no
longer
required

(10) Where a person who is bound by a recognizance to attend to give evidence in any proceeding does not attend or remain in attendance, the court before which the person is bound to attend may issue a warrant in the prescribed form for the arrest of that person and, Arrest on
breach of
recogniz-
ance

(a) where he is brought directly before the court, subsections 6 and 7 apply; and

(b) where he is not brought directly before the court, subsections 3 to 7 apply.

(11) A judge or the justice presiding at the trial may order that the evidence of a person held in custody under this section be taken by a commissioner under section 44, which applies thereto in the same manner as to a witness who is unable to attend by reason of illness. Commission
evidence of
witness in
custody

42.—(1) Where a person whose attendance is required in a court to stand trial or to give evidence is confined in a prison, and a judge is satisfied, upon evidence under oath orally or by affidavit, that his attendance is necessary to satisfy the ends of justice, the judge may issue an order in the prescribed form that the person be brought before the court before which his attendance is required, from day to day, as may be necessary. Order for
person in
a prison
to attend

Idem

(2) An order under subsection 1 shall be addressed to the person who has custody of the prisoner and on receipt thereof that person shall,

- (a) deliver the prisoner to the police officer or other person who is named in the order to receive him; or
- (b) bring the prisoner before the court upon payment of his reasonable charges in respect thereof.

Idem

(3) An order made under subsection 1 shall direct the manner in which the person shall be kept in custody and returned to the prison from which he is brought.

Penalty for
failure to
attend

43.—(1) Every person who, being required by law to attend or remain in attendance at a hearing, fails without lawful excuse to attend or remain in attendance accordingly is guilty of an offence and on conviction is liable to a fine of not more than \$1,000, or to imprisonment for a term of not more than thirty days, or to both.

Proof of
failure to
attend

(2) In a proceeding under subsection 1, a certificate of the clerk or a justice of the court before which the defendant is alleged to have failed to attend stating that the defendant failed to attend is admissible in evidence as *prima facie* proof of the fact without proof of the signature or office of the person appearing to have signed the certificate.

Order for
evidence
by
commission

44.—(1) Upon the application of the defendant or prosecutor, a judge or, during trial, the court may by order appoint a commissioner to take the evidence of a witness who is out of Ontario or is not likely to be able to attend the trial by reason of illness or physical disability or for some other good and sufficient cause.

Admission
of
commission
evidence

(2) Evidence taken by a commissioner appointed under subsection 1 may be read in evidence in the proceeding if,

- (a) it is proved by oral evidence or by affidavit that the witness is unable to attend for a reason set out in subsection 1;
- (b) the transcript of the evidence is signed by the commissioner by or before whom it purports to have been taken; and
- (c) it is proved to the satisfaction of the court that reasonable notice of the time and place for taking the evidence was given to the other party, and the party had full opportunity to cross-examine the witness.

(3) An order under subsection 1 may make provision to enable the defendant to be present or represented by counsel or agent when the evidence is taken, but failure of the defendant to be present or to be represented by counsel or agent in accordance with the order does not prevent the reading of the evidence in the proceedings if the evidence has otherwise been taken in accordance with the order and with this section. Attendance
of accused

(4) Except as otherwise provided by this section or by the rules, the practice and procedure in connection with the appointment of commissioners under this section, the taking of evidence by commissioners, the certifying and return thereof, and the use of the evidence in the proceedings shall, as far as possible, be the same as those that govern like matters in civil proceedings in the Supreme Court. Application
of rules
in civil
cases

45.—(1) Where at any time before a defendant is sentenced a court has reason to believe, based on, Trial of
issue as to
capacity to
conduct
defence

(a) the evidence of a legally qualified medical practitioner or, with the consent of the parties, a written report of a legally qualified medical practitioner;
or

(b) the conduct of the defendant in the courtroom,

that the defendant suffers from mental disorder, the court may,

(c) where the justice presiding is a judge, by order suspend the proceedings and direct the trial of the issue as to whether the defendant is, because of mental disorder, unable to conduct his defence; or

(d) where the justice presiding is a justice of the peace, refer the matter to a judge who may make an order referred to in clause c.

(2) For the purposes of subsection 1, the court may order the defendant to attend to be examined under subsection 5. Examination

(3) The trial of the issue shall be presided over by a judge and, Finding

(a) where he finds that the defendant is, because of mental disorder, unable to conduct his defence, he shall order that further proceeding on the charge be suspended;

- (b) where he finds that the defendant is able to conduct his defence, he shall order that the suspended proceeding be continued.

Application
for
rehearing
as to
capacity

(4) At any time within one year after an order is made under subsection 3, either party may, upon seven days notice to the other, apply to a judge to rehear the trial of the issue and where upon the rehearing the judge finds that the defendant is able to conduct his defence, he may order that the suspended proceeding be continued.

Order for
examination

(5) For the purposes of subsection 1 or a hearing or rehearing under subsection 3 or 4, the court or judge may order the defendant to attend at such place or before such person and at or within such time as are specified in the order and submit to an examination for the purpose of determining whether the defendant is, because of mental disorder, unable to conduct his defence.

Idem

(6) Where the defendant fails or refuses to comply with an order under subsection 5 without reasonable excuse or where the person conducting the examination satisfies a judge that it is necessary to do so, the judge may by warrant direct that the defendant be taken into such custody as is necessary for the purpose of the examination and in any event for not longer than seven days and, where it is necessary to detain the defendant in a place, the place shall be, where practicable, a psychiatric facility.

Limitation
on
suspension
of
proceeding

(7) Where an order is made under subsection 3 and one year has elapsed and no further order is made under subsection 4, no further proceeding shall be taken in respect of the charge or any other charge arising out of the same circumstance.

Taking of
plea

46.—(1) After being informed of the substance of the information or certificate, the defendant shall be asked whether he pleads guilty or not guilty of the offence charged therein.

Conviction
on plea of
guilty

(2) Where the defendant pleads guilty, the court may accept the plea and convict him.

Refusal
to plead

(3) Where the defendant refuses to plead or does not answer directly, the court shall enter a plea of not guilty.

(4) Where the defendant pleads not guilty of the offence charged but guilty of any other offence, whether or not it is an included offence, the court may, with the consent of the prosecutor, accept such plea of guilty and accordingly amend the information or substitute the offence to which the defendant pleads guilty. Plea of guilty to another offence

47.—(1) Subject to section 6, where the defendant pleads not guilty, the court shall hold the trial. Trial on plea of not guilty

(2) The defendant is entitled to make his full answer and defence. Right to defend

(3) The prosecutor or defendant, as the case may be, may examine and cross-examine witnesses. Right to examine witnesses

(4) The court may receive and act upon any facts agreed upon by the defendant and prosecutor without proof or evidence. Agreed facts

(5) Notwithstanding section 8 of *The Evidence Act*, the defendant is not a compellable witness for the prosecution. Defendant not compellable
R.S.O. 1970, c. 151

48.—(1) The court may receive and consider evidence taken before the same justice on a different charge against the same defendant, with the consent of the parties. Evidence taken on another charge

(2) Where a certificate as to the content of an official record is, by any Act, made admissible in evidence as *prima facie* proof, the court may, for the purpose of deciding whether the defendant is the person referred to in the certificate, receive and base its decision upon information it considers credible or trustworthy in the circumstances of each case. Certificate as evidence

(3) The burden of proving that an authorization, exception, exemption or qualification prescribed by law operates in favour of the defendant is on the defendant, and the prosecutor is not required, except by way of rebuttal, to prove that the authorization, exception, exemption or qualification does not operate in favour of the defendant, whether or not it is set out in the information. Burden of proving exception, etc.

49.—(1) The court may order that an exhibit be kept in such custody and place as, in the opinion of the court, is appropriate for its preservation. Exhibits

Release of
exhibits

(2) Where any thing is filed as an exhibit in a proceeding, the clerk may release the exhibit upon the consent of the parties at any time after the trial or, in the absence of consent, may return the exhibit to the party tendering it after the disposition of any appeal in the proceeding or, where an appeal is not taken, after the expiration of the time for appeal.

Adjourn-
ments

50.—(1) The court may, from time to time, adjourn a trial or hearing but, where the defendant is in custody, an adjournment shall not be for a period longer than eight days without the consent of the defendant.

Early
resumption

(2) A trial or hearing that is adjourned for a period may be resumed before the expiration of the period with the consent of the defendant and the prosecutor.

Appearance
by defendant

51.—(1) A defendant may appear and act personally or by counsel or agent.

Appearance
by
corporation

(2) A defendant that is a corporation shall appear and act by counsel or agent.

Exclusion
of agents

(3) The court may bar any person from appearing as an agent who is not a barrister and solicitor entitled to practise in Ontario if the court finds that the person is not competent properly to represent or advise the person for whom he appears as agent or does not understand and comply with the duties and responsibilities of an agent.

Compelling
attendance of
defendant

52. Notwithstanding that a defendant appears by counsel or agent, the court may order the defendant to attend personally, and, where it appears to be necessary to do so, may issue a summons in the prescribed form.

Excluding
defendant
from
hearing

53.—(1) The court may cause the defendant to be removed and to be kept out of court,

- (a) when he misconducts himself by interrupting the proceedings so that to continue in his presence would not be feasible; or
- (b) where, during the trial of an issue as to whether the defendant is, because of mental disorder, unable to conduct his defence, the court is satisfied that failure to do so might have an adverse effect on the mental health of the defendant.

(2) The court may exclude the public or any member of the public from a hearing where, in the opinion of the court, it is necessary to do so, ^{Excluding public from hearing}

(a) for the maintenance of order in the courtroom;

(b) to protect the reputation of a minor; or

(c) to remove an influence that might affect the testimony of a witness.

(3) Where the court considers it necessary to do so to protect the reputation of a minor, the court may make an order prohibiting the publication or broadcast of the identity of the minor or of the evidence or any part of the evidence taken at the hearing. ^{Prohibition of publication of evidence}

54.—(1) Where the defendant appears for a hearing and the prosecutor, having had due notice, does not appear, the court may dismiss the charge or may adjourn the hearing to another time upon such terms as it considers proper. ^{Failure of prosecutor to appear}

(2) Where the prosecutor does not appear at the time and place appointed for the resumption of an adjourned hearing under subsection 1, the court may dismiss the charge. ^{Idem}

(3) Where a hearing is adjourned under subsection 1 or a charge is dismissed under subsection 2, the court may make an order under section 61 for the payment of costs. ^{Costs}

(4) Where a charge is dismissed under subsection 1 or 2, the court may, if requested by the defendant, draw up an order of dismissal stating the grounds therefor and shall give the defendant a certified copy of the order of dismissal which is, without further proof, a bar to any subsequent proceedings against the defendant in respect of the same cause. ^{Written order of dismissal}

55.—(1) Where a defendant does not appear at the time and place appointed for a hearing and it is proved by the prosecutor, having been given a reasonable opportunity to do so, that a summons was served, a notice of trial was given under Part I or II, an undertaking to appear was given or a recognizance to appear was entered into, as the case may be, or where the defendant does not appear upon the resumption of a hearing that has been adjourned, the court, ^{Ex parte conviction}

(a) may proceed *ex parte* to hear and determine the proceedings in the absence of the defendant;

(b) may, if it thinks fit, adjourn the hearing and issue a summons to appear or issue a warrant in the prescribed form for the arrest of the defendant; or

(c) may, where the defendant does not appear in response to the summons or warrant on the date to which the hearing is adjourned, proceed under clause *a* or *b*.

Where
convicted
ex parte

(2) Where, the court proceeds under clause *a* of subsection 1, no proceeding arising out of the failure of the defendant to appear at the time and place appointed for the hearing or for the resumption of the hearing shall be instituted or if instituted shall be proceeded with, except with the consent of the Attorney General or his agent.

Included
offences

56. Where the commission of the offence charged includes the commission of another offence, the defendant may be convicted of an offence so included that is proved, notwithstanding that the whole offence charged is not proved.

Sentencing

Pre-sentence
report

57.—(1) Where a defendant is convicted of an offence in a proceeding commenced by information, the court may direct a probation officer to prepare and file with the court a report in writing relating to the defendant for the purpose of assisting the court in imposing sentence.

Service

(2) Where a report is filed with the court under subsection 1, the clerk of the court shall cause a copy of the report to be provided to the defendant or his counsel or agent and to the prosecutor.

Submissions
as to
sentence

58.—(1) Where a defendant who appears is convicted of an offence, the court shall give the prosecutor and the counsel or agent for the defendant an opportunity to make submissions as to sentence and, where the defendant has no counsel or agent, the court shall ask him if he has anything to say before sentence is passed upon him.

Omission
to comply

(2) The omission to comply with subsection 1 does not affect the validity of the proceeding.

Inquiries
by court

(3) Where a defendant is convicted of an offence, the court may make such inquiries, on oath or otherwise, of and concerning the defendant as it considers desirable, including his economic circumstances, but the defendant shall not be compelled to answer.

(4) A certificate setting out with reasonable particularity the finding of guilt or acquittal or conviction and sentence in Canada of a person signed by, Proof of previous conviction

(a) the person who made the adjudication; or

(b) the clerk of the court in which the adjudication was made,

is, upon the court being satisfied that the defendant is the person referred to in the certificate, admissible in evidence and is *prima facie* proof of the facts stated therein without proof of the signature or the official character of the person appearing to have signed the certificate.

59. In determining the sentence to be imposed on a person convicted of an offence, the justice may take into account any time spent in custody by the person as a result of the offence. Time spent in custody considered

60.—(1) No penalty prescribed for an offence is a minimum penalty unless it is specifically declared to be a minimum. Provision for minimum penalty

(2) Notwithstanding that the provision that creates the penalty for an offence prescribes a minimum fine, where in the opinion of the court exceptional circumstances exist so that to impose the minimum fine would be unduly oppressive or otherwise not in the interests of justice, the court may impose a fine that is less than the minimum or suspend the sentence. Relief against minimum fine

(3) Where a minimum penalty is prescribed for an offence and the minimum penalty includes imprisonment, the court may, notwithstanding the prescribed penalty, impose a fine of not more than \$2,000 in lieu of imprisonment. Idem, re imprisonment

61.—(1) Upon conviction, the defendant is liable to pay to the court an amount by way of costs that is fixed by the regulations. Fixed costs on conviction

(2) The court may, in its discretion, order costs towards fees and expenses reasonably incurred by or on behalf of witnesses in amounts not exceeding the maximum fixed by the regulations, to be paid, Costs respecting witnesses

(a) to the court or prosecutor by the defendant; or

(b) to the defendant by the person who laid the information or issued the certificate, as the case may be,

but where the proceeding is commenced by means of a certificate, the total of such costs shall not exceed \$100.

Costs
collectable
as a fine

(3) Costs payable under this section shall be deemed to be a fine for the purpose of enforcing payment.

General
penalty

62.—(1) Except where otherwise expressly provided by law, every person who is convicted of an offence is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than six months, or to both.

Amendment
of subs. 1

(2) Subsection 1 is amended by striking out “or to imprisonment for a term of not more than six months, or to both” in the third and fourth lines.

Effective
date of
amendment

(3) Subsection 2 does not come into force until the 1st day of January, 1981.

Minute of
conviction

63. Where a court convicts a defendant or dismisses a charge, a minute of the dismissal or conviction and sentence shall be made by the court, and, upon request by the defendant or the prosecutor or by the Attorney General or his agent, the court shall cause a copy thereof certified by the clerk of the court to be delivered to the person making the request.

Time when
imprison-
ment
starts

64.—(1) The term of imprisonment imposed by sentence shall, unless otherwise directed in the sentence, commence on the day on which the convicted person is taken into custody thereunder, but no time during which the convicted person is imprisoned or out on bail before sentence shall be reckoned as part of the term of imprisonment to which he is sentenced.

Idem

(2) Where the court imposes imprisonment, the court may order custody to commence on a day not later than thirty days after the day of sentencing.

Sentences
consecutive

65. Where a person is subject to more than one term of imprisonment at the same time, the terms shall be served consecutively except in so far as the court has ordered a term to be served concurrently with any other term of imprisonment.

Authority
of warrant

66.—(1) A warrant of committal is sufficient authority,

(a) for the conveyance of the prisoner in custody for the purpose of committal under the warrant; and

- (b) for the reception and detention of the prisoner by keepers of prisons in accordance with the terms of the warrant.

(2) A person to whom a warrant of committal is directed shall convey the prisoner to the correctional institution named in the warrant. Conveyance of prisoner

(3) A sentence of imprisonment shall be served in accordance with the enactments and rules that govern the institution to which the prisoner is sentenced. Prisoner subject to rules of institution

67.—(1) A fine becomes due and payable fifteen days after its imposition. When fine due

(2) Where the court imposes a fine, the court shall ask the defendant if he wishes an extension of the time for payment of the fine. Extension of time for payment of a fine

(3) Where the defendant requests an extension of the time for payment of the fine, the court may make such inquiries, on oath or otherwise, of and concerning the defendant as the court considers desirable, but the defendant shall not be compelled to answer. Inquiries

(4) Unless the court finds that the request for extension of time is not made in good faith or that the extension would likely be used to evade payment, the court shall extend the time for payment by ordering periodic payments or otherwise. Granting of extension

(5) Where a fine is imposed in the absence of the defendant, the clerk of the court shall give the defendant notice of the fine and its due date and of his right to apply for an extension of the time for payment under subsection 6. Notice where convicted in absentia

(6) The defendant may, at any time by application in the prescribed form filed in the office of the court, request an extension or further extension of time for payment of a fine and the application shall be determined by a justice and the justice has the same powers in respect of the application as the court has under subsections 3 and 4. Further application for extension

68. The Lieutenant Governor in Council may make regulations establishing a program to permit the payment of fines by means of credits for work performed, and, for the purpose and without restricting the generality of the foregoing may, Regulation for work credits for fines

- (a) prescribe classes of work and the conditions under which they are to be performed;
- (b) prescribe a system of credits;
- (c) provide for any matter necessary for the effective administration of the program,

and any regulation may limit its application to any part or parts of Ontario.

Civil
enforcement
of fines

69.—(1) When the payment of a fine is in default, the clerk of the court may complete a certificate in the prescribed form as to the imposition of the fine and the amount remaining unpaid and file the certificate in a court of competent jurisdiction and upon filing, the certificate shall be deemed to be an order or judgment of that court for the purposes of enforcement.

Limitation

(2) A certificate shall not be filed under subsection 1 after two years after the default in respect of which it is issued.

Certificate of
discharge

(3) Where a certificate has been filed under subsection 1 and the fine is fully paid, the clerk shall file a certificate of payment upon which the certificate of default is discharged and, where a writ of execution has been filed with the sheriff, the clerk shall file a certificate of payment with the sheriff, upon which the writ is cancelled.

Default

70.—(1) The payment of a fine is in default when any part of the fine is due and unpaid for fifteen days or more.

Order on
default

(2) Where a justice is satisfied that payment of a fine is in default, the justice,

(a) shall order that any permit, licence, registration or privilege in respect of which a suspension is authorized by or under any Act for non-payment of the fine be suspended, not renewed or not issued until the fine is paid; and

(b) may direct the clerk of the court to proceed with civil enforcement under section 69.

Imprison-
ment for
non-payment
of fine

(3) A justice may issue a warrant in the prescribed form for the committal of the defendant where,

(a) an order or direction under clause a of subsection 2 has not resulted in payment within a time that is reasonable in the circumstances;

(b) all other reasonable methods of collecting the fine have been tried and failed or, in the opinion of the justice, would not likely result in payment within a reasonable time in the circumstances; and

(c) the defendant has been given fifteen days notice of the intent to issue a warrant and has had an opportunity to be heard.

(4) In exceptional circumstances where, in the opinion of the court imposing the fine, to proceed under subsection 3 would defeat the ends of justice, the court may, Provision on conviction for imprisonment in default

(a) order that no warrant of committal be issued under subsection 3; or

(b) order imprisonment in default of payment of the fine and that no extension of time for payment be granted.

(5) Imprisonment under a warrant issued under subsection 3 or 4 shall be for three days, plus one day for each \$25 or part thereof that is in default, subject to a maximum period of, Term of imprisonment

(a) ninety days; or

(b) half of the maximum imprisonment, if any, provided for the offence,

whichever is the greater.

(6) Any payment made after a warrant is issued under subsection 3 or 4 shall reduce the term by the number of days that is in the same proportion to the number of days in the term as the amount paid bears to the total fine and no amount offered in part payment of a fine shall be accepted unless it is sufficient to secure reduction of sentence of one day, or a multiple thereof. Effect of payments

71. Where an Act provides that a fine may be suspended subject to the performance of a condition, Suspension of fine on conditions

(a) the period of suspension shall be fixed by the court and shall be for not more than one year;

(b) the court shall provide in its order of suspension the method of proving the performance of the condition;

- (c) the suspension is in addition to and not in lieu of any other power of the court in respect of the fine; and
- (d) the fine is not in default until fifteen days have elapsed after notice that the period of suspension has expired is given to the defendant.

Probation
order

72.—(1) Where a defendant is convicted of an offence in a proceeding commenced by information, the court may, having regard to the age, character and background of the defendant, the nature of the offence and the circumstances surrounding its commission,

- (a) suspend the passing of sentence and direct that the defendant comply with the conditions prescribed in a probation order;
- (b) in addition to fining the defendant or sentencing him to imprisonment, whether in default of payment of a fine or otherwise, direct that the defendant comply with the conditions prescribed in a probation order; or
- (c) where it imposes a sentence of imprisonment on the defendant, whether in default of payment of a fine or otherwise, that does not exceed ninety days, order that the sentence be served intermittently at such times as are specified in the order and direct that the defendant, at all times when he is not in confinement pursuant to such order, comply with the conditions prescribed in a probation order.

Statutory
conditions
of order

(2) A probation order shall be deemed to contain the conditions that,

- (a) the defendant not commit the same or any related or similar offence, or any offence under a statute of Canada or Ontario or any other province of Canada that is punishable by imprisonment;
- (b) the defendant appear before the court as and when required; and
- (c) the defendant notify the court of any change in his address.

Conditions
imposed
by court

(3) In addition to the conditions set out in subsection 2, the court may prescribe the following conditions in a probation order,

- (a) that the defendant satisfy any compensation or restitution that is required or authorized by an Act;
- (b) with the consent of the defendant and where the conviction is of an offence that is punishable by imprisonment that the defendant perform a community service as set out in the order;
- (c) where the conviction is of an offence punishable by imprisonment, such other conditions relating to the circumstances of the offence and of the defendant that contributed to the commission of the offence as the court considers appropriate to prevent similar unlawful conduct or to contribute to the rehabilitation of the defendant; or
- (d) where considered necessary for the purpose of implementing the conditions of the probation order, that the defendant report to a responsible person designated by the court and, in addition, where the circumstances warrant it, that the defendant be under the supervision of the person to whom he is required to report.

(4) A probation order shall be in the prescribed form and the court that makes the order shall specify therein the period for which it is to remain in force, which shall not be for more than two years from the date when the order takes effect.

Form of
order

(5) Where the court makes a probation order, it shall cause a copy of the order and a copy of section 75 to be given to the defendant.

Notice of
order

(6) The Lieutenant Governor in Council may make regulations governing restitution, compensation and community service orders, including their terms and conditions.

Regulations
for
community
service
orders

73.—(1) A probation order comes into force,

When order
comes into
force

- (a) on the date on which the order is made; or
- (b) where the defendant is sentenced to imprisonment other than a sentence to be served intermittently, upon the expiration of that sentence.

(2) Subject to section 75, where a defendant who is bound by a probation order is convicted of an offence or is imprisoned in default of payment of a fine, the order continues in force except in so far as the sentence or imprisonment

Continuation
in force

renders it impossible for the defendant to comply for the time being with the order.

Variation of
probation
order

74. The court may, at any time upon the application of the defendant or prosecutor with notice to the other, after a hearing or, with the consent of the parties, without a hearing,

- (a) make any changes in or additions to the conditions prescribed in the order that in the opinion of the court are rendered desirable by a change in circumstances;
- (b) relieve the defendant, either absolutely or upon such terms or for such period as the court considers desirable, of compliance with any condition described in any of the clauses in subsection 3 of section 72 that is prescribed in the order; or
- (c) terminate the order or decrease the period for which the probation order is to remain in force,

and the court shall thereupon endorse the probation order accordingly and, if it changes or adds to the conditions prescribed in the order, inform the defendant of its action and give him a copy of the order so endorsed.

Breach of
probation
order

75. Where a defendant who is bound by a probation order is convicted of an offence constituting a breach of condition of the order and,

- (a) the time within which he may appeal or apply for leave to appeal against that conviction has expired and he has not taken an appeal or applied for leave to appeal;
- (b) he has taken an appeal or applied for leave to appeal against the conviction and the appeal or application for leave has been dismissed or abandoned; or
- (c) he has given written notice to the court that convicted him that he elects not to appeal,

or where the defendant otherwise wilfully fails or refuses to comply with the order, he is guilty of an offence and upon conviction the court may,

- (d) impose a fine of not more than \$1,000 or imprisonment for a term of not more than thirty days, or both, and in lieu of or in addition to the penalty, continue the probation order with such changes or additions and for such extended term, not exceeding an additional year, as the court considers reasonable; or
- (e) where the justice presiding is the justice who made the original order, in lieu of imposing the penalty under clause *d*, revoke the probation order and impose the sentence the passing of which was suspended upon the making of the probation order.

PART V

GENERAL PROVISIONS

76.—(1) Proceedings shall not be commenced after the Limitation expiration of any limitation period prescribed for the offence or, where no limitation period is prescribed, after six months after the date on which the offence was, or is alleged to have been, committed.

(2) A limitation period may be extended by a justice Extension with the consent of the defendant.

77.—(1) Every person is a party to an offence who, Parties to offence

- (a) actually commits it,
- (b) does or omits to do anything for the purpose of aiding any person to commit it; or
- (c) abets any person in committing it.

(2) Where two or more persons form an intention in Common purpose common to carry out an unlawful purpose and to assist each other therein and any one of them, in carrying out the common purpose, commits an offence, each of them who knew or ought to have known that the commission of the offence would be a probable consequence of carrying out the common purpose is a party to the offence.

78.—(1) Where a person counsels or procures another Counselling person to be a party to an offence and that other person is afterwards a party to the offence, the person who counselled or procured is a party to the offence, notwithstanding that the offence was committed in a way different from that which was counselled or procured.

- Idem** (2) Every person who counsels or procures another person to be a party to an offence is a party to every offence that the other commits in consequence of the counselling or procuring that the person who counselled or procured knew or ought to have known was likely to be committed in consequence of the counselling or procuring.
- Computation of age** **79.** In the absence of other evidence, or by way of corroboration of other evidence, a justice may infer the age of a person from his appearance.
- Common law defences** **80.** Every rule and principle of the common law that renders any circumstance a justification or excuse for an act or a defence to a charge continues in force and applies in respect of offences, except in so far as they are altered by or inconsistent with this or any other Act.
- Ignorance of the law** **81.** Ignorance of the law by a person who commits an offence is not an excuse for committing the offence.
- Counsel or agent** **82.** A defendant may act by his counsel or agent.
- Recording of evidence** **83.—(1)** Proceedings in which evidence is taken shall be recorded.
- Evidence under oath** (2) Evidence under this Act shall be taken under oath, except as otherwise provided by law.
- Interpreters** **84.—(1)** A justice may authorize a person to act as interpreter in a proceeding before him where the person swears the prescribed oath and, in the opinion of the justice, is competent.
- Idem** (2) A judge may authorize a person to act as interpreter in proceedings under this Act where he swears the prescribed oath and, in the opinion of the judge is competent and likely to be readily available.
- Extension of time** **85.** Any time prescribed by this Act or the regulations made thereunder or by the rules of the court for doing any thing other than commencing or recommencing proceedings may be extended by the court in which the proceeding is conducted, whether or not the prescribed time has expired.
- Penalty for false statements** **86.** Every person who makes an assertion of fact in a statement or entry in a document or form for use under this Act knowing that the assertion is false is guilty of an offence and on conviction is liable to a fine of not more than \$1,000.

87.—(1) Except as otherwise provided by this Act or the ^{Delivery} rules of the court, any notice or document required or authorized to be given or delivered under this Act or the rules of the court is sufficiently given or delivered if delivered, whether personally or by mail.

(2) Where a notice or document that is required or ^{Idem} authorized to be given or delivered to a person under this Act is mailed to the person at his last known address appearing on the records of the court in the proceeding, there is a rebuttable presumption that the notice or document is delivered to the person.

88. No civil remedy for an act or omission is suspended ^{Civil remedies preserved} or affected for the reason that the act or omission is an offence.

89. Any action authorized or required by this Act is not ^{Process on holidays} invalid for the reason only that the action was taken on a non-judicial day.

90.—(1) The validity of any proceeding is not affected by, ^{Irregularities in form}

(a) any irregularity or defect in the substance or form of the summons, warrant, offence notice, parking infraction notice, undertaking to appear or recognizance; or

(b) any variance between the charge set out in the summons, warrant, parking infraction notice, offence notice undertaking to appear or recognizance and the charge set out in the information or certificate.

(2) Where it appears to the court that the defendant ^{Adjournment to meet irregularities} has been misled by any irregularity, defect or variance mentioned in subsection 1, the court may adjourn the hearing and may make such order as the court considers appropriate, including an order under section 61 for the payment of costs.

91. The Lieutenant Governor in Council may make regu- ^{Regulations} lations,

(a) prescribing any matter referred to in this Act as prescribed by the regulations;

(b) prescribing the form of certificate as to ownership of a motor vehicle given by the Registrar under subsection 2 of section 150 of *The Highway Traffic Act* for the purpose of proceedings under this Act; ^{R.S.O. 1970, c. 202}

- (c) providing for the extension of times prescribed by or under this Act or the rules in the event of a disruption in postal services;
- (d) requiring the payment of fees upon the filing of anything required or permitted to be filed under this Act or the rules and fixing the amounts thereof, and providing for the waiver of the payment of a fee by a justice, or by a judge under Part VI, in such circumstances and under such conditions as are set out in the regulations;
- (e) fixing costs payable upon conviction and referred to in subsection 1 of section 61;
- (f) fixing the items in respect of which costs may be awarded under subsection 2 of section 61 and prescribing the maximum amounts that may be awarded in respect of each item.

PART VI

APPEALS AND REVIEW

Interpre-
tation

92.—(1) In this Part,

- (a) “counsel” when used in respect of proceedings in a provincial court (criminal division) includes an agent;
- (b) “court” means the court to which an appeal is or may be taken under this Part;
- (c) “judge” means a judge of the court to which an appeal is or may be taken under this Part;
- (d) “rules” means the rules made under section 123;
- (e) “sentence” includes any order or disposition consequent upon a conviction and an order as to costs.

References
to Court
of Appeal
R.S.O. 1970,
c. 228

(2) In this Part, a reference to the Court of Appeal means the Court of Appeal notwithstanding subsection 2 of section 17 of *The Judicature Act*.

APPEALS UNDER PART III

Appeal

93.—(1) Where a proceeding is commenced by information under Part III, the defendant or the prosecutor or the

Attorney General by way of intervention may appeal from a conviction or dismissal or from a finding as to ability, because of mental disorder, to conduct a defence or as to sentence.

(2) An appeal under subsection 1 shall be,

Appeal
court

(a) where the appeal is from the decision of a justice of the peace, to the provincial court (criminal division) of the county or district in which the adjudication was made; or

(b) where the appeal is from the decision of a provincial judge, to the county or district court of the county or district in which the adjudication was made.

(3) The appellant shall give notice of appeal in such manner and within such period as is provided by the rules.

Notice of
appeal

94. A defendant who appeals shall, if he is in custody, remain in custody, but a judge may order his release upon any of the conditions set out in subsection 2 of section 134.

Custody
pending
appeal

95.—(1) A notice of appeal by a defendant shall not be accepted for filing if the defendant has not paid in full the fine imposed by the decision appealed from.

Payment of
fine before
appeal

(2) A judge may waive compliance with subsection 1 and order that the appellant enter into a recognizance to appear on the appeal, and the recognizance shall be in such amount, with or without sureties, as the judge directs.

Exception
with recogni-
zance

96. The filing of a notice of appeal does not stay the conviction unless a judge so orders.

Stay

97.—(1) Where an appellant is in custody pending the hearing of the appeal and the hearing of the appeal has not commenced within thirty days from the day on which notice of the appeal was given, the person having custody of the appellant shall apply to a judge to fix a date for the hearing of the appeal.

Fixing of
date where
appellant
in custody

(2) Upon receiving an application under subsection 1, the judge shall, after giving the prosecutor a reasonable opportunity to be heard, fix a date for the hearing of the appeal and give such directions as he thinks appropriate for expediting the hearing of the appeal.

Idem

98. A person does not waive his right of appeal by reason only that he pays the fine or complies with any order imposed upon conviction.

Payment
of fine
not waiver

Transmittal
of material

99. Where a notice of appeal has been filed, the clerk of the appeal court shall notify the clerk of the provincial offences court appealed from of the appeal and, upon receipt of the notification, the clerk of the provincial offences court shall transmit the order appealed from and transmit or transfer custody of all other material in his possession or control relevant to the proceedings to the clerk of the appeal court to be kept with the records of the appeal court.

Powers
of court

100.—(1) The court may, where it considers it to be in the interests of justice,

(a) order the production of any writing, exhibit or other thing relevant to the appeal;

(b) order any witness who would have been a compellable witness at the trial, whether or not he was called at the trial,

(i) to attend and be examined before the court, or

(ii) to be examined in the manner provided by the rules before a judge of the court, or before any officer of the court or justice of the peace or other person appointed by the court for the purpose;

(c) admit, as evidence, an examination that is taken under subclause ii of clause *b*;

(d) receive the evidence, if tendered, of any witness;

(e) order that any question arising on the appeal that,

(i) involves prolonged examination of writings or accounts, or scientific investigation, and

(ii) cannot in the opinion of the court conveniently be inquired into before the court,

be referred for inquiry and report, in the manner provided by the rules, to a special commissioner appointed by the court; and

(f) act upon the report of a commissioner who is appointed under clause *e* in so far as the court thinks fit to do so.

Right of
appellant

(2) In proceedings under this section, the parties or their counsel are entitled to examine or cross-examine witnesses

and, in an inquiry under clause *e* of subsection 1, are entitled to be present during the inquiry and to adduce evidence and to be heard.

101.—(1) An appellant may appear and act personally or by counsel. Right to counsel

(2) An appellant who is in custody as a result of the decision appealed from is entitled to be present at the hearing of the appeal. Attendance while in custody

(3) The power of a court to impose sentence may be exercised notwithstanding that the appellant is not present. Sentencing in absence

102. An appellant may present his case on appeal and his argument in writing instead of orally, and the court shall consider any case or argument so presented. Written argument

103.—(1) On the hearing of an appeal against a conviction or against a finding as to the ability, because of mental disorder, to conduct a defence, the court by order, Powers on appeal against conviction

(a) may allow the appeal where it is of the opinion that,

(i) the finding should be set aside on the ground that it is unreasonable or cannot be supported by the evidence,

(ii) the judgment of the trial court should be set aside on the ground of a wrong decision on a question of law, or

(iii) on any ground, there was a miscarriage of justice; or

(b) may dismiss the appeal where,

(i) the court is of the opinion that the appellant, although he was not properly convicted on a count or part of an information, was properly convicted on another count or part of the information,

(ii) the appeal is not decided in favour of the appellant on any ground mentioned in clause *a*, or

- (iii) notwithstanding that the court is of the opinion that on any ground mentioned in subclause ii of clause *a* the appeal might be decided in favour of the appellant, it is of the opinion that no substantial wrong or miscarriage of justice has occurred.

Idem (2) Where the court allows an appeal under clause *a* of subsection 1, it shall,

- (a) where the appeal is from a conviction,
 - (i) direct a finding of acquittal to be entered, or
 - (ii) order a new trial; or
- (b) where the appeal is from a finding as to the ability, because of mental disorder, to conduct a defence, order a new trial, subject to section 45.

Idem (3) Where the court dismisses an appeal under clause *b* of subsection 1, it may substitute the decision that in its opinion should have been made and affirm the sentence passed by the trial court or impose a sentence that is warranted in law.

Powers
on appeal
against
acquittal

104. Where an appeal is from an acquittal, the court may by order,

- (a) dismiss the appeal; or
- (b) allow the appeal, set aside the finding and,
 - (i) order a new trial, or
 - (ii) enter a finding of guilt with respect to the offence of which, in its opinion, the appellant should have been found guilty, and pass a sentence that is warranted in law.

Appeal
against
sentence

105.—(1) Where an appeal is taken against sentence, the court shall consider the fitness of the sentence appealed from and may, upon such evidence, if any, as it thinks fit to require or receive, by order,

- (a) dismiss the appeal; or
- (b) vary the sentence within the limits prescribed by law for the offence of which the defendant was convicted,

and, in making any order under clause *b*, the court may take into account any time spent in custody by the defendant as a result of the offence.

(2) A judgment of a court that varies a sentence has the same force and effect as if it were a sentence passed by the trial court. Variance of sentence

106. Where one sentence is passed upon a finding of guilt on two or more counts, the sentence is good if any of the counts would have justified the sentence. One sentence on more than one count

107.—(1) Judgment shall not be given in favour of an appellant based on any alleged defect in the substance or form of an information, certificate or process or any variance between the information, certificate or process and the evidence adduced at trial unless it is shown that objection was taken at the trial and that, in the case of a variance, an adjournment of the trial was refused notwithstanding that the variance had misled the appellant. Appeal based on defect in information or process

(2) Where an appeal is based on a defect in a conviction or an order, judgment shall not be given in favour of the appellant, but the court shall make an order curing the defect. Idem

108. Where a court exercises any of the powers conferred by sections 100 to 107, it may make any order, in addition, that justice requires. Additional orders

109.—(1) Where a court orders a new trial, it shall be held in a provincial offences court presided over by a justice other than the justice who tried the defendant in the first instance unless the appeal court directs that the new trial be held before the justice who tried the defendant in the first instance. New trial

(2) Where a court orders a new trial, it may make such order for the release or detention of the appellant pending such trial as may be made by a justice under subsection 2 of section 134 and the order may be enforced in the same manner as if it had been made by a justice under that subsection. Order for release

110.—(1) Where, because of the condition of the record of the trial in the trial court or for any other reason, the court, upon application of the appellant or respondent, is of the opinion that the interests of justice would be better served by hearing and determining the appeal by holding a new trial in the court, the court may order that the appeal Trial *denovo*

shall be heard by way of a new trial in the court in accordance with the rules, and for this purpose this Act applies, with necessary modifications, in the same manner as to a proceeding in a provincial offences court.

Evidence

(2) The court may, for the purpose of hearing and determining an appeal under subsection 1, permit the evidence of any witness taken before the trial court to be read if that evidence has been authenticated and if,

- (a) the appellant and respondent consent;
- (b) the court is satisfied that the attendance of the witness cannot reasonably be obtained; or
- (c) by reason of the formal nature of the evidence or otherwise the court is satisfied that the opposite party will not be prejudiced,

and any evidence that is read under the authority of this subsection has the same force and effect as if the witness had given the evidence before the court.

Dismissal or abandonment

111. The court may, upon proof that notice of an appeal has been given and that,

- (a) the appellant has failed to comply with any order made under section 94 or 95 or with the conditions of any recognizance entered into under either of those sections; or
- (b) the appeal has not been proceeded with or has been abandoned,

order that the appeal be dismissed.

Costs

112.—(1) Where an appeal is heard and determined or is abandoned or is dismissed for want of prosecution, the court may make any order with respect to costs that it considers just and reasonable.

Payment

(2) Where the court orders the appellant or respondent to pay costs, the order shall direct that the costs be paid to the clerk of the trial court, to be paid by him to the person entitled to them, and shall fix the period within which the costs shall be paid.

Enforcement

(3) Costs ordered to be paid under this section by a person other than a prosecutor acting on behalf of the Crown shall

be deemed to be a fine for the purpose of enforcing its payment.

113. An order or judgment of the appeal court shall be implemented or enforced by the trial court and the clerk of the appeal court shall send to the clerk of the trial court the order and all writings relating thereto. Implementation of appeal court order

114.—(1) A defendant or the prosecutor or the Attorney General by way of intervention may appeal from the judgment of the court to the Court of Appeal, with leave of a justice of appeal on special grounds, upon any question of law alone or as to sentence in accordance with the rules made under section 123. Appeal to Court of Appeal

(2) No leave to appeal shall be granted under subsection 1 unless the justice of appeal considers that in the particular circumstances of the case it is essential in the public interest or for the due administration of justice that leave be granted. Grounds for leave

115. A defendant who appeals shall, if he is in custody, remain in custody, but a judge may order his release upon any of the conditions set out in subsection 2 of section 134. Custody pending appeal

116. Where an application for leave to appeal is made, the Registrar of the Court of Appeal shall notify the clerk of the court appealed from of the application and, upon receipt of the notification, the clerk of the court shall transmit to the Registrar all the material forming the record including any other relevant material requested by a justice of appeal. Transfer of record

117. Sections 98, 100, 101, 102, 103, 104, 105, 106, 107, 108 and 109, clause *b* of section 111 and section 112 apply, with necessary modifications, to appeals to the Court of Appeal under section 114. Application of ss. 98, 100-109, 111(b), 112

APPEALS UNDER PARTS I AND II

118.—(1) A defendant or the prosecutor or the Attorney General by way of intervention is entitled to appeal an acquittal, conviction or sentence in a proceeding commenced by certificate under Part I or II and the appeal shall be to the provincial court (criminal division) of the county or district in which the adjudication was made. Appeal

(2) A notice of appeal shall be in the prescribed form and shall state the reasons why the appeal is taken and shall be filed with the clerk of the provincial court (criminal division) Application for appeal

within fifteen days after the making of the decision appealed from, in accordance with the rules.

Notice of
hearing

(3) The clerk shall, as soon as is practicable, give a notice to the defendant and prosecutor of the time and place of the hearing of the appeal.

Conduct
of appeal

119.—(1) Upon an appeal, the court shall give the parties an opportunity to be heard for the purpose of determining the issues and may, where the circumstances warrant it, make such inquiries as are necessary to ensure that the issues are fully and effectively defined.

Review

(2) An appeal shall be conducted by means of a review in the provincial court (criminal division) of the county or district in which the adjudication was made.

Evidence

(3) In determining a review, the court may,

- (a) hear or rehear the recorded evidence or any part thereof and may require any party to provide a transcript of the evidence, or any part thereof, or to produce any further exhibit;
- (b) receive the evidence of any witness whether or not the witness gave evidence at the trial;
- (c) require the justice presiding at the trial to report in writing on any matter specified in the request; or
- (d) receive and act upon statements of agreed facts or admissions.

Dismissal
on abandon-
ment

120. Where an appeal has not been proceeded with or abandoned, the court may order that the appeal be dismissed.

Powers of
court on
appeal

121.—(1) Upon an appeal, the court may affirm, reverse or vary the decision appealed from or where, in the opinion of the court, it is necessary to do so to satisfy the ends of justice, direct a new trial.

New trial

(2) Where the court directs a new trial, it shall be held in the provincial offences court presided over by a justice other than the justice who tried the defendant in the first instance, but the appeal court may, with the consent of the parties to the appeal, direct that the new trial be held before the justice who tried the defendant in the first instance or before the judge who directs the new trial.

(3) Upon an appeal, the court may make an order under section 61 for the payment of costs incurred on the appeal, and subsection 3 thereof applies to the order in the same manner as to an order of a provincial offences court. Costs

122.—(1) An appeal lies from the judgment of the provincial court (criminal division) to the Court of Appeal, with leave of a justice of appeal, on special grounds, upon any question of law alone in accordance with the rules made under section 123. Appeal to Court of Appeal

(2) No leave to appeal shall be granted under subsection 1 unless the justice of appeal considers that in the particular circumstances of the case it is essential in the public interest or for the due administration of justice that leave be granted. Grounds for leave

(3) Upon an appeal under this section, the Court of Appeal may make any order with respect to costs that it considers just and reasonable. Costs

RULES FOR APPEALS

123. The Lieutenant Governor in Council may make rules of court not inconsistent with this or any other Act for the conduct of and governing practices and procedures on appeals in the provincial courts (criminal division), the county and district courts and the Court of Appeal under this Act, and respecting any matter arising from or incidental to such appeals. Rules of court for appeals

REVIEW

124.—(1) Upon an application by way of originating notice, the High Court may by order grant any relief in respect of matters arising under this Act that the applicant would be entitled to in proceedings by way of an application for an order in the nature of mandamus, prohibition or *certiorari*. Application for relief in nature of mandamus, prohibition, certiorari

(2) Notice of an application under this section shall be served on, Notice of application

(a) the person whose act or omission gives rise to the application;

(b) any person who is a party to a proceeding that gives rise to the application; and

(c) the Attorney General.

Appeal (3) An appeal lies to the Court of Appeal from an order made under this section.

Notice re
certiorari

125.—(1) A notice under section 124 in respect of an application for relief in the nature of *certiorari* shall be given at least seven days and not more than ten days before the date fixed for the hearing of the application and the notice shall be served within thirty days after the occurrence of the act sought to be quashed.

Filing
material

(2) Where a notice referred to in subsection 1 is served on the person making the decision, order or warrant or holding the proceeding giving rise to the application, such person shall forthwith file in the High Court for use on the application, all material concerning the subject-matter of the application.

Where
appeal
available

(3) No application shall be made to quash a conviction, order or ruling from which an appeal is provided by this Act, whether subject to leave or otherwise.

Substantial
wrong

(4) On an application for relief in the nature of *certiorari*, the High Court shall not grant relief unless the court finds that a substantial wrong or miscarriage of justice has occurred, and the court may amend or validate any decision already made, with effect from such time and on such terms as the court considers proper.

Order for
immunity
from civil
liability

(5) Where an application is made to quash a decision, order, warrant or proceeding made or held by a justice on the ground that he exceeded his jurisdiction, the High Court may, in quashing the decision, order, warrant or proceeding, order that no civil proceeding shall be taken against the justice or against any officer who acted under the decision, order or warrant or in the proceeding or under any warrant issued to enforce it.

Application
for *habeas*
corpus

126.—(1) Upon an application by way of originating notice, the High Court may by order grant any relief in respect of a matter arising under this Act that the applicant would be entitled to in proceedings by way of an application for an order in the nature of *habeas corpus*.

Procedure on
application
for relief
in nature of
habeas corpus

(2) Notice of an application under subsection 1 for relief in the nature of *habeas corpus* shall be served upon the person having custody of the person in respect of whom the application is made and upon the Attorney General and upon the

hearing of the application the presence before the High Court of the person in respect of whom the application was made may be dispensed with by consent, in which event the High Court may proceed to dispose of the matter forthwith as the justice of the case requires.

(3) Subject to subsections 1 and 2, *The Habeas Corpus Act* applies to applications under this section, but an application for relief in the nature of *certiorari* may be brought in aid of an application under this section. Application of R.S.O. 1970, c. 197.

(4) *The Judicial Review Procedure Act, 1971* and sections 69 and 70 of *The Judicature Act* do not apply to matters in respect of which an application may be made under section 124. 1971, c. 48 and R.S.O. 1970, c. 228, ss. 69, 70 do not apply

(5) A court to which an application or appeal is made under section 124 or this section may make any order with respect to costs that it considers just and reasonable. Costs

PART VII

ARREST, BAIL AND SEARCH WARRANTS

Arrest

127. In this Part, "officer in charge" means the police officer who is in charge of the lock-up or other place to which a person is taken after his arrest. Officer in charge

128.—(1) A warrant for the arrest of a person shall be executed by a police officer by arresting the person against whom the warrant is directed wherever he is found in Ontario. Execution of warrant

(2) A police officer may arrest without warrant a person for whose arrest he has reasonable and probable grounds to believe that a warrant is in force in Ontario. Idem

129. Any person may arrest without warrant a person who he has reasonable and probable grounds to believe has committed an offence and is escaping from and freshly pursued by a police officer who has lawful authority to arrest that person, and, where the person who makes the arrest is not a police officer, shall forthwith deliver the person arrested to a police officer. Arrest without warrant

130.—(1) Every police officer is, if he acts on reasonable and probable grounds, justified in using as much force as is necessary to do what he is required or authorized by law to do. Use of force

Use of force
by citizen

(2) Every person upon whom a police officer calls for assistance is justified in using as much force as he believes on reasonable and probable grounds is necessary to render such assistance.

Immunity
from civil
liability

131. Where a person is wrongfully arrested, whether with or without a warrant, no action for damages shall be brought,

- (a) against the police officer making the arrest if he believed in good faith and on reasonable and probable grounds that the person arrested was the person named in the warrant or was subject to arrest without warrant under the authority of an Act;
- (b) against any person called upon to assist the police officer if such person believed that the police officer had the right to effect the arrest; or
- (c) against any person required to detain the prisoner in custody if such person believes the arrest was lawfully made.

Production
of process

132.—(1) It is the duty of every one who executes a process or warrant to have it with him, where it is feasible to do so, and to produce it when requested to do so.

Notice of
reason for
arrest

(2) It is the duty of every one who arrests a person, whether with or without warrant, to give notice to that person, where it is feasible to do so, of the reason for the arrest.

Bail

Release
after
arrest
by
officer

133.—(1) Where a police officer acting under a warrant or other power of arrest, arrests a person, the police officer shall, as soon as is practicable, release the person from custody after serving him with a summons or offence notice unless he has reasonable and probable grounds to believe that,

- (a) it is necessary in the public interest for the person to be detained, having regard to all the circumstances including the need to,
 - (i) establish the identity of the person,
 - (ii) secure or preserve evidence of or relating to the offence, or

- (iii) prevent the continuation or repetition of the offence or the commission of another offence;
or

- (b) the person arrested is ordinarily resident outside Ontario and will not respond to a summons or offence notice.

(2) Where a defendant is not released from custody under subsection 1, the police officer shall deliver him to the officer in charge who shall, where in his opinion the conditions set out in clauses *a* and *b* of subsection 1 do not or no longer exist, release the defendant, Release by officer in charge

- (a) upon serving him with a summons or offence notice;

- (b) upon his entering into a recognizance in the prescribed form without sureties conditioned for his appearance in court.

(3) Where the defendant is held for the reason only that he is not ordinarily resident in Ontario and it is believed that he will not respond to a summons or offence notice, the officer in charge may, in addition to anything required under subsection 2, require the defendant to deposit cash or other satisfactory negotiable security in an amount not to exceed, Cash bail by non-resident

- (a) where the proceeding is commenced by certificate under Part I or II, the amount of the set fine for the offence or, if none, \$300; or

- (b) where the proceeding is commenced by information under Part III, \$500.

134.—(1) Where a defendant is not released from custody under section 133, the officer in charge shall, as soon as is practicable but in any event within twenty-four hours, bring him before a justice and the justice shall, unless a plea of guilty is taken, order that the defendant be released upon giving his undertaking to appear unless the prosecutor having been given an opportunity to do so shows cause why the detention of the defendant is justified to ensure his appearance in court or why an order under subsection 2 is justified for the same purpose. Person in custody to be brought before justice

(2) Subject to subsection 1, the justice may order the release of the defendant, Order for conditional release

- (a) upon his entering into a recognizance to appear with such conditions as are appropriate to ensure his appearance in court;
- (b) where the offence is one punishable by imprisonment for twelve months or more, conditional upon his entering into a recognizance before a justice with sureties in such amount and with such conditions, if any, as are appropriate to ensure his appearance in court or, with the consent of the prosecutor, upon his depositing with the justice such sum of money or other valuable security as the order directs in an amount not exceeding,
 - (i) where the proceeding is commenced by certificate under Part I or II, the amount of the set fine for the offence or, if none, \$300, or
 - (ii) where the proceeding is commenced by information under Part III, \$1,000; or
- (c) if the defendant is not ordinarily resident in Ontario, upon his entering into a recognizance before a justice, with or without sureties, in such amount and with such conditions, if any, as are appropriate to ensure his appearance in court, and depositing with the justice such sum of money or other valuable security as the order directs in an amount not exceeding,
 - (i) where the proceeding is commenced by certificate under Part I or II, the amount of the set fine for the offence or if none, \$300, or
 - (ii) where the proceeding is commenced by information under Part III, \$1,000.

Idem

(3) The justice shall not make an order under clause *b* or *c* of subsection 2 unless the prosecutor shows cause why an order under the immediately preceding clause should not be made.

Order for detention

(4) Where the prosecutor shows cause why the detention of the defendant in custody is justified to ensure his appearance in court, the justice shall order the defendant to be detained in custody until he is dealt with according to law.

Reasons

(5) The justice shall include in the record a statement of his reasons for his decision under subsection 1, 2 or 4.

Evidence at hearing

(6) In a proceeding under subsection 1, the justice may receive and base his decision upon information he considers

credible or trustworthy in the circumstances of each case except that the defendant shall not be examined or cross-examined in respect of the offence with which he is charged.

(7) A proceeding under subsection 1 shall not be adjourned for more than three days without the consent of the defendant.

Adjournments

135.—(1) Where a defendant is not released from custody under section 133 or 134, he shall be brought before the court forthwith and, in any event, within eight days.

Expediting trial of person in custody

(2) The justice presiding upon any appearance of the defendant in court may, upon the application of the defendant or prosecutor, review any order made under section 134 and make such further or other order under section 134 as to him seems appropriate in the circumstances.

Further orders

136. A defendant or the prosecutor may appeal from an order or refusal to make an order under section 134 or 135 and the appeal shall be to the county or district court of the county or district in which the adjudication was made and shall be conducted in accordance with the rules made under section 123.

Appeal

137.—(1) A person who is released upon deposit under subsection 3 of section 133 or clause c of subsection 2 of section 134 may appoint the clerk of the court to act as his agent, in the event that he does not appear to answer to the charge, for the purpose of entering a plea of guilty on his behalf and authorizing the clerk to apply the amount so deposited toward payment of the fine and costs imposed by the court upon the conviction, and the clerk shall act as agent under this subsection without fee.

Appointment of agent for appearance

(2) An officer in charge or justice who takes a recognizance, money or security under section 133 or 134 shall make a return thereof to the court where the defendant is required to appear.

Returns to court

(3) The clerk of the court shall, upon the conclusion of proceedings, make a financial return to every person who deposited money or security under a recognizance and return the surplus, if any.

Returns to sureties

138.—(1) The recognizance of a person to appear in a proceeding binds the person and his sureties in respect of all appearances required in the proceeding at times and places to which the proceeding is adjourned.

Recognizance binds for all appearances

Recognizance
binds
independ-
ently of
other
charges

(2) A recognizance is binding in respect of appearances for the offence to which it relates and is not vacated upon the arrest, discharge or conviction of the defendant upon another charge.

Liability of
principal

(3) The principal to a recognizance is bound for the amount of the recognizance due upon forfeiture.

Liability
where
sureties

(4) The principal and each surety to a recognizance are bound, jointly and severally, for the amount of the recognizance due upon forfeiture for non-appearance.

Application
by surety
to be
relieved

139.—(1) A surety to a recognizance may, by application in writing to the court at which the defendant is required to appear, apply to be relieved of his obligation under the recognizance and the court shall thereupon issue a warrant for the arrest of the defendant.

Certificate
of
arrest

(2) When a police officer arrests the defendant under a warrant issued under subsection 1, he shall bring the defendant before a justice under section 134 and certify the arrest by certificate in the prescribed form and deliver the certificate to the court.

Vacating of
recognizance

(3) The receipt of the certificate by the court under subsection 2 vacates the recognizance and discharges the sureties.

Delivery of
defendant
by surety

140. A surety to a recognizance may discharge his obligation under the recognizance by delivering the defendant into the custody of the court at which he is required to appear at any time while it is sitting at or before the trial of the defendant.

Certificate
of
default

141.—(1) Where a person who is bound by recognizance does not comply with a condition of the recognizance, a justice having knowledge of the facts shall endorse on the recognizance a certificate in the prescribed form setting out,

(a) the nature of the default;

(b) the reason for the default, if it is known;

(c) whether the ends of justice have been defeated or delayed by reason of the default; and

(d) the names and addresses of the principal and sureties.

Certificate
as evidence

(2) A certificate that has been endorsed on a recognizance under subsection 1 is evidence of the default to which it relates.

(3) The clerk of the court shall transmit the endorsed recognizance to the clerk of the county or district court of the same county or district and, upon its receipt, the endorsed recognizance constitutes an application for the forfeiture of the recognizance. Application for forfeiture

(4) A judge of the county or district court shall fix a time and place for the hearing of the application by the county or district court and the clerk of the county or district court shall, not less than ten days before the time fixed for the hearing, deliver notice to the prosecutor and to each principal and, where the application is for forfeiture for non-appearance, each surety named in the recognizance, of the time and place fixed for the hearing and requiring each principal and surety to show cause why the recognizance should not be forfeited. Notice of hearing

(5) The county or district court may, after giving the parties an opportunity to be heard, in its discretion grant or refuse the application and make any order in respect of the forfeiture of the recognizance that the court considers proper. Order as to forfeiture

(6) Where an order for forfeiture is made under subsection 5, Collection on forfeiture

- (a) any money or security forfeited shall be paid over by the person who has custody of it to the person who is entitled by law to receive it; and
- (b) the principal and surety become judgment debtors of the Crown jointly and severally in the amount forfeited under the recognizance and the amount may be collected in the same manner as money owing under a judgment of the county or district court.

Search Warrants

142.—(1) Where a justice is satisfied by information upon oath that there is reasonable ground to believe that there is in any building, receptacle or place, Search warrant

- (a) anything upon or in respect of which an offence has been or is suspected to have been committed; or
- (b) anything that there is reasonable ground to believe will afford evidence as to the commission of an offence,

he may at any time issue a warrant in the prescribed form under his hand authorizing a police officer or person named

therein to search such building, receptacle or place for any such thing, and to seize and carry it before the justice issuing the warrant or another justice in the county or district in which the provincial offences court having jurisdiction in respect of the offence is situated to be dealt with by him according to law.

Expiration (2) Every search warrant shall name a date upon which it expires, which date shall be not later than fifteen days after its issue.

When to be executed (3) Every search warrant shall be executed between 6 a.m. and 9 p.m. standard time, unless the justice by the warrant otherwise authorizes.

Detention of things seized **143.**—(1) Where any thing is seized and brought before a justice, he shall by order,

(a) detain it or direct it to be detained in the care of a person named in the order; or

(b) direct it to be returned,

and the justice may in the order authorize the examination, testing, inspection or reproduction of the thing seized upon such conditions as are reasonably necessary and directed in the order, and may make any other provision as in the opinion of the justice is necessary for its preservation.

Time limit for detention (2) Nothing shall be detained under an order made under subsection 1 for a period of more than three months after the time of seizure unless, before the expiration of that period,

(a) upon application, a justice is satisfied that having regard to the nature of the investigation, its further detention for a specified period is warranted and he so orders; or

(b) proceedings are instituted in which the thing detained may be required.

Application for examination and copying (3) Upon the application of the defendant, prosecutor or person having an interest in a thing detained under subsection 1, a justice may make an order for the examination, testing, inspection or reproduction of any thing detained upon such conditions as are reasonably necessary and directed in the order.

Application for release (4) Upon the application of a person having an interest in a thing detained under subsection 1, and upon notice to the

defendant, the person from whom the thing was seized, the person to whom the search warrant was issued and any other person who has an apparent interest in the thing detained, a justice may make an order for the release of any thing detained to the person from whom the thing was seized where it appears that the thing detained is no longer necessary for the purpose of an investigation or proceeding.

(5) Where an order or refusal to make an order under subsection 3 or 4 is made by a justice of the peace, an appeal lies therefrom in the same manner as an appeal from a conviction in a proceeding commenced by means of a certificate. Appeal where order by justice of the peace

144.—(1) Where under a search warrant a person is about to examine or seize a document that is in the possession of a lawyer and a solicitor-client privilege is claimed on behalf of a named client in respect of the document, the person shall, without examining or making copies of the document, Examination or seizure of documents where privilege claimed

- (a) seize the document and place it, together with any other document seized in respect of which the same claim is made on behalf of the same client, in a package and seal and identify the package; and
- (b) place the package in the custody of the clerk of the court in the jurisdiction of which the seizure was made or, with the consent of the person and the client, in the custody of another person.

(2) No person shall examine or seize a document that is in the possession of a lawyer without giving him a reasonable opportunity to claim the privilege under subsection 1. Opportunity to claim privilege

(3) A judge may, upon the *ex parte* application of the lawyer, by order authorize the lawyer to examine or make a copy of the document in the presence of its custodian or the judge, and the order shall contain such provisions as are necessary to ensure that the document is repackaged and resealed without alteration or damage. Examination of documents in custody

(4) Where a document has been seized and placed in custody under subsection 1, the client by or on whose behalf the claim of solicitor-client privilege is made may apply to a judge for an order sustaining the privilege and for the return of the document. Application to determine privilege

(5) An application under subsection 4 shall be by notice of motion returnable not later than thirty days after the date on which the document was placed in custody. Limitation

Attorney
General
a party

(6) The person who seized the document and the Attorney General are parties to an application under subsection 4 and entitled to at least three days notice thereof.

Private
hearing and
scrutiny by
judge

(7) An application under subsection 4 shall be heard in private, and, for the purposes of the hearing, the judge may examine the document and, if he does so, shall cause it to be resealed.

Order

(8) The judge may, by order,

- (a) declare that the solicitor-client privilege exists or does not exist in respect of the document;
- (b) direct that the document be delivered up to the appropriate person.

Release of
document
where no
application
under subs. 4

(9) Where it appears to a judge upon the application of the Attorney General or person who seized the document that no application has been made under subsection 4 within the time limit prescribed by subsection 5, the judge shall order that the document be delivered to the applicant.

PART VIII

ORDERS ON APPLICATION UNDER STATUTES

Orders
under
statutes

145. Where, by any other Act, proceedings are authorized to be taken before a court or a justice for an order, including an order for the payment of money, this Act applies, with necessary modifications, to the proceeding in the same manner as to a proceeding commenced under Part III, and for the purpose,

- (a) in place of an information, the applicant shall complete a statement in the prescribed form under oath attesting, on reasonable and probable grounds, to the existence of facts that would justify the order sought; and
- (b) in place of a plea, the defendant shall be asked whether or not he wishes to dispute the making of the order.

PART IX

COMMENCEMENT AND TRANSITION

146.—(1) This Act, except Parts I and II, applies to ^{Application} offences in respect of which proceedings are commenced after this Act comes into force.

(2) Part I and Part II each applies to offences occurring ^{Idem} after that Part comes into force.

147.—(1) Subject to subsections 2 and 3, the following ^{Repeals} are repealed:

1. *The Summary Convictions Act*, being chapter 450 of the Revised Statutes of Ontario, 1970.
2. *The Summary Convictions Amendment Act, 1971*, being chapter 10.

(2) The enactments repealed by subsection 1 continue in ^{Transition} force in respect of offences to which this Act does not apply.

(3) If subsection 1 comes into force before Part II comes into force, the enactments repealed by subsection 1 continue ^{Application of subs. 1 to parking infractions} to apply in respect of parking infractions.

148.—(1) A reference in any Act, regulation or by-law to ^{Reference to R.S.O. 1970, c. 450} *The Summary Convictions Act* shall be deemed to be a reference to this Act.

(2) A reference in any Act, regulation or by-law to ^{References to summary conviction} proceeding by summary conviction shall be deemed to refer to the procedures under this Act.

149. This Act comes into force on a day to be named by ^{Commencement} proclamation of the Lieutenant Governor.

150. The short title of this Act is *The Provincial Offences Act, 1979*. ^{Short title}

An Act to establish a Code of
Procedure for Provincial Offences

1st Reading

March 6th, 1979

2nd Reading

March 6th, 1979

3rd Reading

March 27th, 1979

THE HON. R. MCMURTRY
Attorney General

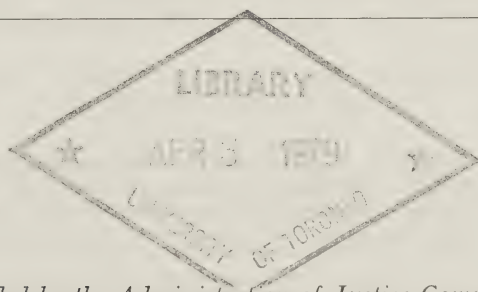
3
BILL 75

Government Bill

3RD SESSION, 31ST LEGISLATURE, ONTARIO
28 ELIZABETH II, 1979

An Act to amend The Provincial Courts Act

THE HON. R. MCMURTRY
Attorney General and Solicitor General



(Reprinted as amended by the Administration of Justice Committee)

TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTES

SECTION 1. The new provision empowers the courts and judges to proceed in accordance with the due administration of justice where express procedures are not otherwise provided.

SECTION 2. The chief judge of the provincial courts (criminal division) is chief judge of the provincial offences courts.

SECTION 3. The rules committee for provincial courts (criminal division) is established in respect of procedures under the *Criminal Code* (Canada). The same rules committee will make rules for provincial offences courts under section 16*f*, as enacted by section 4 of this Bill.

An Act to amend The Provincial Courts Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 9 of *The Provincial Courts Act*, being chapter 369 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following subsection:

(1a) Where jurisdiction is conferred on a judge, justice of the peace or provincial court, in the absence of express provision for procedures therefor in any Act, regulation or rule, the judge, justice of the peace or provincial court shall exercise the jurisdiction in any manner consistent with the due administration of justice.

s. 9,
amended
Where
procedures
not
provided

2. Section 10 of the said Act, as amended by the Statutes of Ontario, 1977, chapter 46, section 1, is further amended by adding thereto the following subsection:

(1a) The chief judge of the provincial courts (criminal division) is chief judge of the provincial offences courts.

s. 10,
amended
Chief judge
of provincial
offences
courts

3. The said Act is amended by adding thereto the following section:

16a.—(1) The rules committee of the provincial courts (criminal division) is established and shall be composed of such members as are appointed by the Lieutenant Governor in Council who shall designate one of the members as chairman.

s. 16a,
enacted
Rules
committee

(2) A majority of the members of the rules committee constitutes a quorum.

Quorum

(3) The rules committee of the provincial courts (criminal division) is a provincial court (criminal division) for the purpose of making rules of court under the *Criminal Code* (Canada).

Rules

R.S.C. 1970,
c. C-34

Part II-A
(ss. 16b-16f),
enacted

4. The said Act is further amended by adding thereto the following Part:

PART II-A

Provincial
offences
court

16b.—(1) There shall be in every county and district a court of record to be styled,

(a) in counties, the “Provincial Offences Court of the County (or Judicial District or United Counties) of (*naming the county, etc.*)”;

(b) in districts, the “Provincial Offences Court of the District of (*naming the district*)”,

presided over by a judge or justice of the peace.

Jurisdiction

(2) Each provincial offences court has jurisdiction to hear, determine and dispose of,

1979, c. ...

(a) all matters in which jurisdiction is conferred by *The Provincial Offences Act, 1979*; and

(b) any other matter assigned to it by or under any statute.

Sittings

16c.—(1) The provincial offences courts may hold sittings at any place in the county or district designated by the chief judge of the provincial offences courts.

Idem

(2) Where a proceeding in which a provincial offences court has jurisdiction is conducted during the course of a sitting of the provincial court (criminal division) or provincial court (family division) in the same county or district, the proceeding shall be deemed to be conducted in the provincial offences court.

Penalty
for
contempt

16d.—(1) Except as otherwise provided by statute, every person who commits contempt in the face of a provincial offences court is upon conviction liable to a fine of not more than \$1,000 or to imprisonment for a term of not more than thirty days, or to both.

Statement
to
offender

(2) Before proceedings are taken for contempt under subsection 1, the court shall inform the offender of the conduct complained of and the nature of the contempt and inform him of his right to show cause why he should not be punished.

SECTION 4. The provincial offences courts are established in a manner parallel to provincial courts (criminal division). Provision is made for contempt procedures and rules. The new Part is complementary to the Bill to enact *The Provincial Offences Act, 1979*.

(3) A punishment for contempt in the face of the court shall not be imposed without giving the offender an opportunity to show cause why he should not be punished. Show cause

(4) Except where, in the opinion of the court, it is necessary to deal with the contempt immediately for the preservation of order and control in the courtroom, the court shall adjourn the contempt proceeding to another day. Adjournment for adjudication of contempt

(5) Where a contempt proceeding is adjourned to another day under subsection 1, the contempt proceeding shall be heard and determined by the court presided over by a judge. Adjudication by a judge

(6) Where the court proceeds to deal with a contempt immediately and without adjournment under subsection 4, the court may order the offender arrested and detained in the courtroom for the purpose of the hearing and determination. Arrest for immediate adjudication of contempt

(7) Where the offender is appearing before the court as an agent who is not a barrister and solicitor entitled to practise in Ontario, the court may order that he be barred from acting as agent in the proceeding in addition to any other punishment to which he is liable. Barring of agent in contempt

(8) An order of punishment for contempt under this section is appealable in the same manner as if it were a conviction in proceedings commenced by certificate under Part I of *The Provincial Offences Act, 1979*. Appeals
1979, c. . . .

(9) *The Provincial Offences Act, 1979* applies for the purpose of enforcing a punishment by way of a fine or imprisonment under this section. Enforcement

16e. Any person who knowingly disturbs or interferes with the proceedings of a provincial offences court, without reasonable justification, while outside the courtroom is guilty of an offence and upon conviction is liable to a fine of not more than \$1,000 or to imprisonment for a term of not more than thirty days, or to both. Penalty for disturbance outside courtroom

16f. Subject to the approval of the Lieutenant Governor in Council, the rules committee of the provincial courts (criminal division) may make rules regulating any matters relating to the practice and procedure of the provincial offences courts including, without limiting the generality of the foregoing, Rules for provincial offences courts

(a) prescribing forms respecting proceedings in the court;

(b) prescribing any matter required to be or referred to as prescribed by the rules of the court;

(c) prescribing and regulating the proceedings under any Act that confers jurisdiction upon a provincial offences court or a judge or justice of the peace sitting therein.

s. 27,
amended

5. Section 27 of the said Act is amended by adding thereto the following subsection:

Idem

(1a) The clerk of a provincial court (criminal division) is the clerk of the provincial offences court of the same county or district.

References
to
provincial
courts
(criminal
division)

6. Where, in any Act, regulation or by-law, a reference is made to a provincial court (criminal division) in connection with a provincial offence, the reference shall be deemed to be to a provincial offences court.

Commence-
ment

7. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

8. The short title of this Act is *The Provincial Courts Amendment Act, 1979*.

SECTION 5. The amendment provides for clerks for the provincial offences courts.

SECTION 6. The provision recognizes the transfer of jurisdiction from provincial courts (criminal division) to provincial offences courts.

An Act to amend
The Provincial Courts Act

1st Reading

March 6th, 1979

2nd Reading

March 6th, 1979

3rd Reading

THE HON. R. McMURTRY
Attorney General and Solicitor General

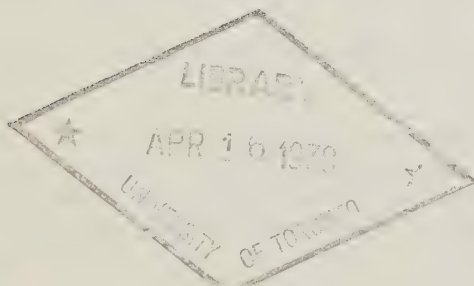
*(Reprinted as amended by the
Administration of Justice Committee)*

3
17
BILL 75

3RD SESSION, 31ST LEGISLATURE, ¹ONTARIO
28 ELIZABETH II, 1979
Legislative Assembly

An Act to amend The Provincial Courts Act

THE HON. R. MCMURTRY
Attorney General



An Act to amend The Provincial Courts Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 9 of *The Provincial Courts Act*, being chapter 369 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following subsection:

(1a) Where jurisdiction is conferred on a judge, justice of the peace or provincial court, in the absence of express provision for procedures therefor in any Act, regulation or rule, the judge, justice of the peace or provincial court shall exercise the jurisdiction in any manner consistent with the due administration of justice.

s. 9,
amended
Where
procedures
not
provided

2. Section 10 of the said Act, as amended by the Statutes of Ontario, 1977, chapter 46, section 1, is further amended by adding thereto the following subsection:

(1a) The chief judge of the provincial courts (criminal division) is chief judge of the provincial offences courts.

s. 10,
amended
Chief judge
of provincial
offences
courts

3. The said Act is amended by adding thereto the following section:

16a.—(1) The rules committee of the provincial courts (criminal division) is established and shall be composed of such members as are appointed by the Lieutenant Governor in Council who shall designate one of the members as chairman.

s. 16a,
enacted
Rules
committee

(2) A majority of the members of the rules committee constitutes a quorum.

Quorum

(3) The rules committee of the provincial courts (criminal division) is a provincial court (criminal division) for the purpose of making rules of court under the *Criminal Code* (Canada).

Rules
R.S.C. 1970,
c. C-34

Part II-A
(ss. 16b-16f),
enacted

4. The said Act is further amended by adding thereto the following Part:

PART II-A

Provincial
offences
court

16b.—(1) There shall be in every county and district a court of record to be styled,

- (a) in counties, the “Provincial Offences Court of the County (or Judicial District or United Counties) of (naming the county, etc.)”;
- (b) in districts, the “Provincial Offences Court of the District of (naming the district)”;

presided over by a judge or justice of the peace.

Jurisdiction

(2) Each provincial offences court has jurisdiction to hear, determine and dispose of,

1979, c. ...

- (a) all matters in which jurisdiction is conferred by *The Provincial Offences Act, 1979*; and
- (b) any other matter assigned to it by or under any statute.

Sittings

16c.—(1) The provincial offences courts may hold sittings at any place in the county or district designated by the chief judge of the provincial offences courts.

Idem

(2) Where a proceeding in which a provincial offences court has jurisdiction is conducted during the course of a sitting of the provincial court (criminal division) or provincial court (family division) in the same county or district, the proceeding shall be deemed to be conducted in the provincial offences court.

Penalty
for
contempt

16d.—(1) Except as otherwise provided by statute, every person who commits contempt in the face of a provincial offences court is upon conviction liable to a fine of not more than \$1,000 or to imprisonment for a term of not more than thirty days, or to both.

Statement
to
offender

(2) Before proceedings are taken for contempt under subsection 1, the court shall inform the offender of the conduct complained of and the nature of the contempt and inform him of his right to show cause why he should not be punished.

(3) A punishment for contempt in the face of the court shall not be imposed without giving the offender an opportunity to show cause why he should not be punished.

Show
cause

(4) Except where, in the opinion of the court, it is necessary to deal with the contempt immediately for the preservation of order and control in the courtroom, the court shall adjourn the contempt proceeding to another day.

Adjournment
for
adjudication
of contempt

(5) Where a contempt proceeding is adjourned to another day under subsection 1, the contempt proceeding shall be heard and determined by the court presided over by a judge.

Adjudication
by a judge

(6) Where the court proceeds to deal with a contempt immediately and without adjournment under subsection 4, the court may order the offender arrested and detained in the courtroom for the purpose of the hearing and determination.

Arrest for
immediate
adjudication
of contempt

(7) Where the offender is appearing before the court as an agent who is not a barrister and solicitor entitled to practise in Ontario, the court may order that he be barred from acting as agent in the proceeding in addition to any other punishment to which he is liable.

Barring of
agent in
contempt

(8) An order of punishment for contempt under this section is appealable in the same manner as if it were a conviction in proceedings commenced by certificate under Part I of *The Provincial Offences Act, 1979*.

Appeals

1979, c. . . .

(9) *The Provincial Offences Act, 1979* applies for the purpose of enforcing a punishment by way of a fine or imprisonment under this section.

Enforcement

16e. Any person who knowingly disturbs or interferes with the proceedings of a provincial offences court, without reasonable justification, while outside the courtroom is guilty of an offence and upon conviction is liable to a fine of not more than \$1,000 or to imprisonment for a term of not more than thirty days, or to both.

Penalty for
disturbance
outside
courtroom

16f. Subject to the approval of the Lieutenant Governor in Council, the rules committee of the provincial courts (criminal division) may make rules regulating any matters relating to the practice and procedure of the provincial offences courts including, without limiting the generality of the foregoing,

Rules for
provincial
offences
courts

(a) prescribing forms respecting proceedings in the court;

- (b) prescribing any matter required to be or referred to as prescribed by the rules of the court;
- (c) prescribing and regulating the proceedings under any Act that confers jurisdiction upon a provincial offences court or a judge or justice of the peace sitting therein.

s. 27, amended	5. Section 27 of the said Act is amended by adding thereto the following subsection:
Idem	(1a) The clerk of a provincial court (criminal division) is the clerk of the provincial offences court of the same county or district.
References to provincial courts (criminal division)	6. Where, in any Act, regulation or by-law, a reference is made to a provincial court (criminal division) in connection with a provincial offence, the reference shall be deemed to be to a provincial offences court.
Commence- ment	7. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.
Short title	8. The short title of this Act is <i>The Provincial Courts Amendment Act, 1979</i> .

An Act to amend
The Provincial Courts Act

1st Reading

March 6th, 1979

2nd Reading

March 6th, 1979

3rd Reading

March 27th, 1979

THE HON. R. MCMURTRY
Attorney General

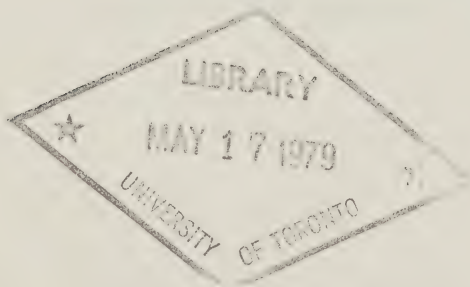
BILL 76

Private Member's Bill

3RD SESSION, 31ST LEGISLATURE, ONTARIO
28 ELIZABETH II, 1979

An Act to amend The Highway Traffic Act

MR. SWART



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTE

The purpose of the Bill is to require that all school buses in Ontario be equipped with seat belts. The Bill contains an amendment to *The Highway Traffic Act* stating that any school bus used for the purpose of transporting children to or from school must be equipped with a seat belt assembly for each passenger seat. The responsibility for ensuring that seat belts are used by all passengers is incorporated in the existing *Highway Traffic Act* and provides that the driver of a vehicle is responsible for those under 16 years of age.

BILL 76

1979

An Act to amend The Highway Traffic Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 6 of section 63a of *The Highway Traffic Act*, being ^{s. 63a (6),} chapter 202 of the Revised Statutes of Ontario, 1970, as amended enacted by the Statutes of Ontario, 1975 (2nd Session), chapter 14, section 1, is amended by inserting after "vehicle" in the first line "including a school bus referred to in section 120".
2. Section 120 of the said Act, as amended by the Statutes of ^{s. 120,} Ontario, 1974, chapter 123, section 29, 1975, chapter 64, amended section 1 and 1977, chapter 54, section 14, is further amended by adding thereto the following subsection:

(5a) No school bus shall be used to transport children to or from school unless the bus is equipped with a seat belt assembly for each seating position occupied by the driver and passengers. ^{School bus to be equipped with seat belts}
3. This Act comes into force on the day it receives Royal Assent. <sup>Commence-
ment</sup>
4. The short title of this Act is *The Highway Traffic Amendment Act, 1979*. ^{Short title}

An Act to amend
The Highway Traffic Act

1st Reading

May 3rd, 1979

2nd Reading

3rd Reading

MR. SWART

(Private Member's Bill)

3RD SESSION, 31ST LEGISLATURE, ¹ONTARIO
28 ELIZABETH II, 1979

Legislative Assembly

An Act to amend The Crown Timber Act

THE HON. J. A. C. AULD
Minister of Natural Resources



EXPLANATORY NOTES

SECTION 1. Clauses *e* and *g* of section 1 of the Act now read as follows:

(*e*) "*licence*" means a document heretofore or hereafter granted that authorizes the cutting of Crown timber;

.

(*g*) "*licensee*" means a person to whom a licence has been granted or to whom a licence has been assigned with the consent of the Minister or in whom a licence has become vested by operation of law.

Clause *e* is extended to include an agreement referred to in the new section 5*a* of the Act (section 5 of the Bill). Clause *g* is extended to include a person who enters into such an agreement.

SECTION 2. Subsection 7 of section 2 of the Act now reads as follows:

(7) *Notwithstanding subsection 1, the Minister may grant licences to cut Crown timber at such rates and subject to such terms and conditions as he considers proper, if the stumpage charges payable for such timber do not exceed \$2,000.*

The limitation to granting a licence under subsection 7 is changed to a maximum licensed area of 160 acres.

An Act to amend The Crown Timber Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clauses *e* and *g* of section 1 of *The Crown Timber Act*, being ^{s. 1 (e) (g), re-enacted} chapter 102 of the Revised Statutes of Ontario, 1970, are repealed and the following substituted therefor:

(*e*) “licence” means a document heretofore or hereafter granted that authorizes the cutting of Crown timber and, subject to subsection 3 of section 5*a*, includes an agreement entered into under subsection 1 of that section;

.

(*g*) “licensee” means a person,

- (i) to whom a licence has been granted,
- (ii) with whom the Minister has entered into an agreement under subsection 1 of section 5*a*,
- (iii) to whom a licence has been assigned with the consent of the Minister, or
- (iv) in whom a licence has become vested by operation of law.

2. Subsection 7 of section 2 of the said Act is repealed and the ^{s. 2 (7), re-enacted} following substituted therefor:

(7) Notwithstanding subsection 1, the Minister may grant a licence to cut Crown timber at such prices and subject to such terms and conditions as he considers proper, if the licensed area does not exceed 160 acres. ^{Licence where licensed area not more than 160 acres}

s. 4,
re-enacted

3. Section 4 of the said Act, as re-enacted by the Statutes of Ontario, 1971, chapter 23, section 1, is repealed and the following substituted therefor:

Crown
management
units

4. The Minister may designate any public lands and other lands on which trees are vested in Her Majesty in right of Ontario as a Crown management unit and, subject to the approval of the Lieutenant Governor in Council, may enter into agreement with any person for the supply of Crown timber to such person from such unit for such term of years and in such manner as they agree upon.

s. 5 (1),
re-enacted

4. Subsection 1 of section 5 of the said Act is repealed and the following substituted therefor:

Salvage
licences

(1) Where Crown timber that is not subject to a licence has been killed or damaged, the Minister may grant licences to permit the salvage of such timber and the cutting of any other Crown timber that in his opinion should in the interest of economic forest utilization be cut with such killed or damaged timber at such prices and subject to such terms and conditions as he considers proper.

s. 5a,
enacted

5. The said Act is amended by adding thereto the following section:

Authority to
enter into a
forest
management
agreement

5a.—(1) Subject to the approval of the Lieutenant Governor in Council, the Minister may enter into an agreement with any person for the management of Crown timber on a sustained yield basis and for carrying out all operations necessary for such management and, without restricting the generality of the foregoing, any such agreement may provide for,

- (a) the cutting of Crown timber and the prices therefor;
- (b) the cutting of killed or damaged Crown timber and any other Crown timber that in the Minister's opinion should in the interest of economic forest utilization be cut with such killed or damaged Crown timber subject to such prices, if any, and to such terms and conditions as the Minister and such person may agree upon;
- (c) any matter referred to in subsection 4 of section 25;
- (d) the construction, reconstruction and maintenance of any road necessary for such management and operations;

SECTION 3. Section 4 of the Act now reads as follows:

- 4. The Minister, with the approval of the Lieutenant Governor in Council, may designate any public lands and other lands on which trees are vested in Her Majesty in right of Ontario as a Crown management unit and enter into agreement with any person for the supply of Crown timber to such person from such unit for such term of years and in such manner as they agree upon.*

The amendment dispenses with the requirement that the Lieutenant Governor in Council approve the designation of a Crown management unit.

SECTION 4. Subsection 1 of section 5 of the Act now reads as follows:

- (1) Where Crown timber in respect of which a licence has not been granted has been killed or damaged, the Minister may grant licences to permit the salvage of such timber and the cutting of any other Crown timber that in his opinion should in the interest of economic forest utilization be cut with such killed or damaged timber at such prices and subject to such terms and conditions as he considers proper.*

The underlined words have been struck out and replaced with the words "that is not subject to a licence". The amendment complements section 1 of the Bill and recognizes that, in future, "licence" will include an agreement entered into under subsection 1 of the new section 5a of the Act.

SECTION 5. Subsection 1 of the new section 5a enables the Minister, with the approval of the Lieutenant Governor in Council, to enter into an agreement with any person for the management of Crown timber on a sustained yield basis and for carrying out all operations necessary for such management.

Subsection 2 defines "sustained yield" and complements subsection 1.

Subsection 3 excludes the application of various provisions of the Act to an agreement entered into under subsection 1.

SECTION 6. Section 12 of the Act now reads as follows:

- 12.—(1) *A licence does not confer any right to cut Crown timber on lands for which at the time the licence is granted a patent, lease, licence of occupation, or permit has been issued, unless the right to so cut is expressly granted by the licence.*
- (2) *A licence does not confer any right to cut Crown timber on unpatented lands that at the time the licence is granted have been located or sold under The Public Lands Act.*

The amendment complements section 1 of the Bill and recognizes that, in future, "licence" will include an agreement entered into under subsection 1 of the new section 5a of the Act.

SECTION 7. Section 18 of the Act, exclusive of the clauses, now reads as follows:

18. Notwithstanding the granting of a licence, the Minister may,

.

The amendment complements section 1 of the Bill and recognizes that, in future, "licence" will include an agreement entered into under subsection 1 of the new section 5a of the Act.

- (e) a reduction of the stumpage charges to be paid by such person for any increase in the volume of Crown timber that is cut and is the direct result of any silvicultural treatment applied at the expense of such person;
- (f) the preparation of plans, rules, reports and any other documents necessary for such management and operations; and
- (g) such other terms and conditions as the Minister and such person may agree upon that are not inconsistent with the regulations,

and, except in the case of a provision made under clause *b* or *e*, any such agreement shall be subject to the terms and conditions prescribed in the regulations.

(2) In subsection 1, the expression "sustained yield" means the growth of timber that a forest can produce and that can be cut to achieve a continuous approximate balance between growth of timber and timber cut. Meaning of "sustained yield"

(3) Subsections 2 and 3 of section 5, section 15*a*, clause *b* of section 18, sections 24, 25, 26 and 31 and clause *k* of section 46 do not apply in respect of an agreement entered into under subsection 1. Certain sections do not apply to agreement

6. Section 12 of the said Act is repealed and the following substituted therefor: s. 12, re-enacted

12.—(1) A licence does not confer any right to cut Crown timber on lands for which at the time the licence comes into force a patent, lease, licence of occupation, or permit has been issued, unless the right to so cut is expressly conferred by the licence. Express right necessary to cut on certain lands

(2) A licence does not confer any right to cut Crown timber on unpatented lands that at the time the licence comes into force have been located or sold under *The Public Lands Act*. No right to cut on located or sold lands R.S.O. 1970, c. 380

7. Section 18 of the said Act, exclusive of the clauses, is repealed and the following substituted therefor: s. 18, amended

18. Notwithstanding any licence, the Minister may, Additional powers

s. 26 (1),
re-enacted

- 8.** Subsection 1 of section 26 of the said Act is repealed and the following substituted therefor:

Cancellation
or variation of
licence, etc.

(1) Notwithstanding anything in any general or special Act or in any regulation or in any licence or in any management plan or operating plan, the Lieutenant Governor in Council,

- (a) having regard to reasonable business requirements of the licensee, may cancel or vary any licence in respect of one or more parts of a licensed area or in respect of any type, size or species of timber designated by him; and
- (b) with the consent of the licensee, may cancel or vary any term or condition of a licence.

s. 32 (1),
amended

- 9.** Subsection 1 of section 32 of the said Act, exclusive of the clauses, is repealed and the following substituted therefor:

Boards of
examiners,
appointment
and duties

(1) The Minister may in writing appoint boards of examiners, each consisting of three skilled persons, any two of whom form a quorum, whose duty is,

Commence-
ment

- 10.** This Act comes into force on the day it receives Royal Assent.

Short title

- 11.** The short title of this Act is *The Crown Timber Amendment Act, 1979*.

SECTION 8. Subsection 1 of section 26 of the Act now reads as follows:

- (1) *Notwithstanding anything in any general or special Act or in any regulation or in any licence or in any management plan or operating plan, the Lieutenant Governor in Council, having regard to reasonable business requirements of the licensee, may cancel or vary any licence in respect of one or more parts of a licensed area or in respect of any type, size or species of timber designated by him.*

The amendment enables the Lieutenant Governor in Council, with the consent of a licensee, to cancel or vary any term or condition of a licence.

SECTION 9. Subsection 1 of section 32 of the Act, exclusive of the clauses, now reads as follows:

- (1) *The Lieutenant Governor in Council may appoint boards of examiners, each consisting of three skilled persons, any two of whom form a quorum, whose duty is,*

.

The amendment gives the Minister the authority to appoint boards of examiners.

An Act to amend
The Crown Timber Act

1st Reading

May 4th, 1979

2nd Reading

3rd Reading

THE HON. J. A. C. ATLD
Minister of Natural Resources

(Government Bill)

3RD SESSION, 31ST LEGISLATURE, ONTARIO
28 ELIZABETH II, 1979
Legislation

An Act to amend The Crown Timber Act

THE HON. J. A. C. AULD
Minister of Natural Resources

(Reprinted as amended by the Committee of the Whole House)

EXPLANATORY NOTES

SECTION 1. Clauses *e* and *g* of section 1 of the Act now read as follows:

(*e*) "*licence*" means a document heretofore or hereafter granted that authorizes the cutting of Crown timber;

.

(*g*) "*licensee*" means a person to whom a licence has been granted or to whom a licence has been assigned with the consent of the Minister or in whom a licence has become vested by operation of law.

Clause *e* is extended to include an agreement referred to in the new section 5a of the Act (section 5 of the Bill). Clause *g* is extended to include a person who enters into such an agreement.

SECTION 2. Subsection 7 of section 2 of the Act now reads as follows:

(7) *Notwithstanding subsection 1, the Minister may grant licences to cut Crown timber at such rates and subject to such terms and conditions as he considers proper, if the stumpage charges payable for such timber do not exceed \$2,000.*

The limitation to granting a licence under subsection 7 is changed to a maximum licensed area of 160 acres.

An Act to amend The Crown Timber Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clauses *e* and *g* of section 1 of *The Crown Timber Act*, being chapter 102 of the Revised Statutes of Ontario, 1970, are repealed and the following substituted therefor: s. 1 (e) (g),
re-enacted

(*e*) “licence” means a document heretofore or hereafter granted that authorizes the cutting of Crown timber and, subject to subsection 3 of section 5*a*, includes an agreement entered into under subsection 1 of that section;

.

(*g*) “licensee” means a person,

(i) to whom a licence has been granted,

(ii) with whom the Minister has entered into an agreement under subsection 1 of section 5*a*,

(iii) to whom a licence has been assigned with the consent of the Minister, or

(iv) in whom a licence has become vested by operation of law.

2. Subsection 7 of section 2 of the said Act is repealed and the following substituted therefor: s. 2 (7),
re-enacted

(7) Notwithstanding subsection 1, the Minister may grant a licence to cut Crown timber at such prices and subject to such terms and conditions as he considers proper, if the licensed area does not exceed 160 acres. Licence where
licensed area
not more than
160 acres

s. 4,
re-enacted

3. Section 4 of the said Act, as re-enacted by the Statutes of Ontario, 1971, chapter 23, section 1, is repealed and the following substituted therefor:

Crown
management
units

4. The Minister may designate any public lands and other lands on which trees are vested in Her Majesty in right of Ontario as a Crown management unit and, subject to the approval of the Lieutenant Governor in Council, may enter into agreement with any person for the supply of Crown timber to such person from such unit for such term of years and in such manner as they agree upon.

s. 5 (1),
re-enacted

4. Subsection 1 of section 5 of the said Act is repealed and the following substituted therefor:

Salvage
licences

(1) Where Crown timber that is not subject to a licence has been killed or damaged, the Minister may grant licences to permit the salvage of such timber and the cutting of any other Crown timber that in his opinion should in the interest of economic forest utilization be cut with such killed or damaged timber at such prices and subject to such terms and conditions as he considers proper.

s. 5a,
enacted

5. The said Act is amended by adding thereto the following section:

Authority to
enter into a
forest
management
agreement



5a.—(1) Subject to the approval of the Lieutenant Governor in Council, the Minister may enter into an agreement with any person for the management of Crown timber on a sustained yield basis and for carrying out all operations necessary for such management and, without restricting the generality of the foregoing, every such agreement shall set out,

- (a) the silvicultural specifications that are to be observed and performed in respect of the harvesting, regeneration and tending of the forest areas that are subject to the agreement; and
- (b) the standards of regeneration to be achieved on the forest areas that are subject to the agreement,

and may provide for,

- (c) the cutting of Crown timber and the prices therefor:
- (d) the cutting of killed or damaged Crown timber and any other Crown timber that in the Minister's opinion should in the interest of economic forest utilization be cut with such killed or damaged Crown timber subject to such

SECTION 3. Section 4 of the Act now reads as follows:

4. *The Minister, with the approval of the Lieutenant Governor in Council, may designate any public lands and other lands on which trees are vested in Her Majesty in right of Ontario as a Crown management unit and enter into agreement with any person for the supply of Crown timber to such person from such unit for such term of years and in such manner as they agree upon.*

The amendment dispenses with the requirement that the Lieutenant Governor in Council approve the designation of a Crown management unit.

SECTION 4. Subsection 1 of section 5 of the Act now reads as follows:

- (1) *Where Crown timber in respect of which a licence has not been granted has been killed or damaged, the Minister may grant licences to permit the salvage of such timber and the cutting of any other Crown timber that in his opinion should in the interest of economic forest utilization be cut with such killed or damaged timber at such prices and subject to such terms and conditions as he considers proper.*

The underlined words have been struck out and replaced with the words "that is not subject to a licence". The amendment complements section 1 of the Bill and recognizes that, in future, "licence" will include an agreement entered into under subsection 1 of the new section 5a of the Act.

SECTION 5. Subsection 1 of the new section 5a enables the Minister, with the approval of the Lieutenant Governor in Council, to enter into an agreement with any person for the management of Crown timber on a sustained yield basis and for carrying out all operations necessary for such management.

Subsection 2 defines "sustained yield" and complements subsection 1.

Subsection 3 excludes the application of various provisions of the Act to an agreement entered into under subsection 1.

 Subsection 4 provides for the tabling of copies of agreements and certain reports. 

prices, if any, and to such terms and conditions as the Minister and such person may agree upon;

- (e) the construction, reconstruction and maintenance of any road necessary for such management and operations;
- (f) a reduction of the stumpage charges to be paid by such person for any increase in the volume of Crown timber that is cut and is the direct result of any silvicultural treatment applied at the expense of such person;
- (g) the preparation of plans, rules, reports and any other documents necessary for such management and operations; and
- (h) such other terms and conditions as the Minister and such person may agree upon that are not inconsistent with the regulations,


and, except in the case of a provision made under clause *d* or *f*, any such agreement shall be subject to the terms and conditions prescribed in the regulations.

(2) In subsection 1, the expression "sustained yield" means the growth of timber that a forest can produce and that can be cut to achieve a continuous approximate balance between growth of timber and timber cut. Meaning of "sustained yield"

(3) Subsections 2 and 3 of section 5, section 15*a*, clause *b* of section 18, sections 24, 25, 26 and 31 and clause *k* of subsection 1 of section 46 do not apply in respect of an agreement entered into under subsection 1. Certain sections do not apply to agreement

(4) If the Assembly is then in session, the Minister shall, Tabling

- (a) within five days after entering into an agreement under subsection 1 or an amending agreement, lay before the Assembly a copy of the agreement or amending agreement, as the case may be;
- (b) after the end of each year of an agreement entered into under subsection 1, lay before the Assembly a report in respect of the areas harvested, regenerated and tended under such agreement in the year that has ended; and
- (c) after the end of each term of five years of an agreement entered into under subsection 1, lay before the Assembly a report in respect of the relationship between the harvest and growth, including regeneration, of timber during the said term on the area subject to the agreement,

or, if the Assembly is not then in session, at the beginning of the next ensuing session. 

s. 12,
re-enacted

6. Section 12 of the said Act is repealed and the following substituted therefor:

Express right
necessary to
cut on certain
lands

12.—(1) A licence does not confer any right to cut Crown timber on lands for which at the time the licence comes into force a patent, lease, licence of occupation, or permit has been issued, unless the right to so cut is expressly conferred by the licence.

No right to
cut on located
or sold lands
R.S.O. 1970,
c. 380

(2) A licence does not confer any right to cut Crown timber on unpatented lands that at the time the licence comes into force have been located or sold under *The Public Lands Act*.

s. 18,
amended

7. Section 18 of the said Act, exclusive of the clauses, is repealed and the following substituted therefor:

Additional
powers

18. Notwithstanding any licence, the Minister may,

.

s. 26 (1),
re-enacted

8. Subsection 1 of section 26 of the said Act is repealed and the following substituted therefor:

Cancellation
or variation of
licence, etc.

(1) Notwithstanding anything in any general or special Act or in any regulation or in any licence or in any management plan or operating plan, the Lieutenant Governor in Council,

(a) having regard to reasonable business requirements of the licensee, may cancel or vary any licence in respect of one or more parts of a licensed area or in respect of any type, size or species of timber designated by him; and

(b) with the consent of the licensee, may cancel or vary any term or condition of a licence.

s. 32 (1),
amended

9. Subsection 1 of section 32 of the said Act, exclusive of the clauses, is repealed and the following substituted therefor:

Boards of
examiners,
appointment
and duties

(1) The Minister may in writing appoint boards of examiners, each consisting of three skilled persons, any two of whom form a quorum, whose duty is,

.

SECTION 6. Section 12 of the Act now reads as follows:

- 12.—(1) *A licence does not confer any right to cut Crown timber on lands for which at the time the licence is granted a patent, lease, licence of occupation, or permit has been issued, unless the right to so cut is expressly granted by the licence.*
- (2) *A licence does not confer any right to cut Crown timber on unpatented lands that at the time the licence is granted have been located or sold under The Public Lands Act.*

The amendment complements section 1 of the Bill and recognizes that, in future, “licence” will include an agreement entered into under subsection 1 of the new section 5a of the Act.

SECTION 7. Section 18 of the Act, exclusive of the clauses, now reads as follows:

18. Notwithstanding the granting of a licence, the Minister may,

.

The amendment complements section 1 of the Bill and recognizes that, in future, “licence” will include an agreement entered into under subsection 1 of the new section 5a of the Act.

SECTION 8. Subsection 1 of section 26 of the Act now reads as follows:

- (1) *Notwithstanding anything in any general or special Act or in any regulation or in any licence or in any management plan or operating plan, the Lieutenant Governor in Council, having regard to reasonable business requirements of the licensee, may cancel or vary any licence in respect of one or more parts of a licensed area or in respect of any type, size or species of timber designated by him.*

The amendment enables the Lieutenant Governor in Council, with the consent of a licensee, to cancel or vary any term or condition of a licence.

SECTION 9. Subsection 1 of section 32 of the Act, exclusive of the clauses, now reads as follows:

- (1) *The Lieutenant Governor in Council may appoint boards of examiners, each consisting of three skilled persons, any two of whom form a quorum, whose duty is,*

.

The amendment gives the Minister the authority to appoint boards of examiners.

10. This Act comes into force on the day it receives Royal Assent. Commence-
ment
11. The short title of this Act is *The Crown Timber Amendment Act, 1979*. Short title

An Act to amend
The Crown Timber Act

1st Reading

May 4th, 1979

2nd Reading

November 6th, 1979

3rd Reading

THE HON. J. A. C. AULD
Minister of Natural Resources

(Reprinted as amended by the
Committee of the Whole House)

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B
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77
BILL 77

3RD SESSION, 31ST LEGISLATURE, ONTARIO
28 ELIZABETH II, 1979

Legislative Assembly

An Act to amend The Crown Timber Act

THE HON. J. A. C. AULD
Minister of Natural Resources



BILL 77

1979

An Act to amend The Crown Timber Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clauses *e* and *g* of section 1 of *The Crown Timber Act*, being chapter 102 of the Revised Statutes of Ontario, 1970, are repealed and the following substituted therefor: s. 1 (e) (g),
re-enacted

(*e*) "licence" means a document heretofore or hereafter granted that authorizes the cutting of Crown timber and, subject to subsection 3 of section 5*a*, includes an agreement entered into under subsection 1 of that section;

.

(*g*) "licensee" means a person,

(i) to whom a licence has been granted,

(ii) with whom the Minister has entered into an agreement under subsection 1 of section 5*a*,

(iii) to whom a licence has been assigned with the consent of the Minister, or

(iv) in whom a licence has become vested by operation of law.

2. Subsection 7 of section 2 of the said Act is repealed and the following substituted therefor: s. 2 (7),
re-enacted

(7) Notwithstanding subsection 1, the Minister may grant a licence to cut Crown timber at such prices and subject to such terms and conditions as he considers proper, if the licensed area does not exceed 160 acres. Licence where
licensed area
not more than
160 acres

s. 4.
re-enacted

3. Section 4 of the said Act, as re-enacted by the Statutes of Ontario, 1971, chapter 23, section 1, is repealed and the following substituted therefor:

Crown
management
units

4. The Minister may designate any public lands and other lands on which trees are vested in Her Majesty in right of Ontario as a Crown management unit and, subject to the approval of the Lieutenant Governor in Council, may enter into agreement with any person for the supply of Crown timber to such person from such unit for such term of years and in such manner as they agree upon.

s. 5 (1),
re-enacted

4. Subsection 1 of section 5 of the said Act is repealed and the following substituted therefor:

Salvage
licences

(1) Where Crown timber that is not subject to a licence has been killed or damaged, the Minister may grant licences to permit the salvage of such timber and the cutting of any other Crown timber that in his opinion should in the interest of economic forest utilization be cut with such killed or damaged timber at such prices and subject to such terms and conditions as he considers proper.

s. 5a,
enacted

5. The said Act is amended by adding thereto the following section:

Authority to
enter into a
forest
management
agreement

5a.—(1) Subject to the approval of the Lieutenant Governor in Council, the Minister may enter into an agreement with any person for the management of Crown timber on a sustained yield basis and for carrying out all operations necessary for such management and, without restricting the generality of the foregoing, every such agreement shall set out,

(a) the silvicultural specifications that are to be observed and performed in respect of the harvesting, regeneration and tending of the forest areas that are subject to the agreement; and

(b) the standards of regeneration to be achieved on the forest areas that are subject to the agreement,

and may provide for,

(c) the cutting of Crown timber and the prices therefor:

(d) the cutting of killed or damaged Crown timber and any other Crown timber that in the Minister's opinion should in the interest of economic forest utilization be cut with such killed or damaged Crown timber subject to such

prices, if any, and to such terms and conditions as the Minister and such person may agree upon;

- (e) the construction, reconstruction and maintenance of any road necessary for such management and operations;
- (f) a reduction of the stumpage charges to be paid by such person for any increase in the volume of Crown timber that is cut and is the direct result of any silvicultural treatment applied at the expense of such person;
- (g) the preparation of plans, rules, reports and any other documents necessary for such management and operations; and
- (h) such other terms and conditions as the Minister and such person may agree upon that are not inconsistent with the regulations,

and, except in the case of a provision made under clause *d* or *f*, any such agreement shall be subject to the terms and conditions prescribed in the regulations.

(2) In subsection 1, the expression “sustained yield” means the growth of timber that a forest can produce and that can be cut to achieve a continuous approximate balance between growth of timber and timber cut. Meaning of “sustained yield”

(3) Subsections 2 and 3 of section 5, section 15*a*, clause *b* of section 18, sections 24, 25, 26 and 31 and clause *k* of subsection 1 of section 46 do not apply in respect of an agreement entered into under subsection 1. Certain sections do not apply to agreement

(4) If the Assembly is then in session, the Minister shall, Tabling

- (a) within five days after entering into an agreement under subsection 1 or an amending agreement, lay before the Assembly a copy of the agreement or amending agreement, as the case may be;
- (b) after the end of each year of an agreement entered into under subsection 1, lay before the Assembly a report in respect of the areas harvested, regenerated and tended under such agreement in the year that has ended; and
- (c) after the end of each term of five years of an agreement entered into under subsection 1, lay before the Assembly a report in respect of the relationship between the harvest and growth, including regeneration, of timber during the said term on the area subject to the agreement,

or, if the Assembly is not then in session, at the beginning of the next ensuing session.

s. 12,
re-enacted

6. Section 12 of the said Act is repealed and the following substituted therefor:

Express right
necessary to
cut on certain
lands

12.—(1) A licence does not confer any right to cut Crown timber on lands for which at the time the licence comes into force a patent, lease, licence of occupation, or permit has been issued, unless the right to so cut is expressly conferred by the licence.

No right to
cut on located
or sold lands
R.S.O. 1970,
c. 380

(2) A licence does not confer any right to cut Crown timber on unpatented lands that at the time the licence comes into force have been located or sold under *The Public Lands Act*.

s. 18,
amended

7. Section 18 of the said Act, exclusive of the clauses, is repealed and the following substituted therefor:

Additional
powers

18. Notwithstanding any licence, the Minister may,

.

s. 26 (1),
re-enacted

8. Subsection 1 of section 26 of the said Act is repealed and the following substituted therefor:

Cancellation
or variation of
licence, etc.

(1) Notwithstanding anything in any general or special Act or in any regulation or in any licence or in any management plan or operating plan, the Lieutenant Governor in Council,

(a) having regard to reasonable business requirements of the licensee, may cancel or vary any licence in respect of one or more parts of a licensed area or in respect of any type, size or species of timber designated by him; and

(b) with the consent of the licensee, may cancel or vary any term or condition of a licence.

s. 32 (1),
amended

9. Subsection 1 of section 32 of the said Act, exclusive of the clauses, is repealed and the following substituted therefor:

Boards of
examiners,
appointment
and duties

(1) The Minister may in writing appoint boards of examiners, each consisting of three skilled persons, any two of whom form a quorum, whose duty is,

.

- 10.** This Act comes into force on the day it receives Royal Assent. Commence-
ment
- 11.** The short title of this Act is *The Crown Timber Amendment Act, 1979*. Short title

An Act to amend
The Crown Timber Act

1st Reading

May 4th, 1979

2nd Reading

November 6th, 1979

3rd Reading

December 18th, 1979

THE HON. J. A. C. AULD
Minister of Natural Resources

3
F7 BILL 78

Private Member's Bill

3RD SESSION, 31ST LEGISLATURE, ONTARIO
28 ELIZABETH II, 1979

An Act to amend The Statute Labour Act

MR. WILDMAN



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTE

The purpose of the Bill is to provide additional authority to roads commissioners under the Act in order to better enable them to carry out their duties.

The principal changes are the following:

1. The limitation on the amount which the commissioners may fix for commutation of statute labour is removed. (s. 2).
2. The authority to conduct a sale of lands to recover arrears payable under *The Statute Labour Act* is transferred from the sheriff of the district in which the roads commissioners have jurisdiction to the secretary-treasurer of the roads commissioners.
3. The roads commissioners are authorized to erect and maintain enforceable traffic signs in the area under their jurisdiction.

BILL 78

1979

An Act to amend The Statute Labour Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 4 of *The Statute Labour Act*, being chapter 445 of the Revised Statutes of Ontario, 1970, is repealed and the following substituted therefor: s. 4,
re-enacted

4. The council of any township may by by-law direct that a sum, as may be determined by the council, shall be paid as commutation of statute labour for the whole or any part of the township, in which case the amount of the commutation shall be added in a separate column in the collector's roll and shall be collected and accounted for like other taxes. Commutation
of labour

2. Subsection 1 of section 26 of the said Act is repealed and the following substituted therefor: s. 26 (1),
re-enacted

(1) Any person instead of performing the statute labour required of him may commute therefor by payment at the rate per day fixed by resolution of the commissioners, and the commissioners shall expend all commutation money upon the roads on which the labour that is commuted for should have been performed, unless in the opinion of the commissioners the money should be expended on other roads under their jurisdiction. Commutation

3. Section 34 of the said Act is repealed. s. 34,
repealed

4. Section 35 of the said Act is repealed and the following substituted therefor: s. 35,
re-enacted

35.—(1) Where it appears to the secretary-treasurer that any amount chargeable for statute labour is in arrears for three years from the 31st day of December in the year in which the amount became payable, the secretary-treasurer Sale of
land by
secretary-
treasurer
for arrears

may proceed to collect the amount together with the penalties provided by section 29 and interest as provided by subsection 5 of section 34 and all other lawful charges and costs incurred in connection with the sale of the lands in respect of which the arrears are chargeable.

Idem

(2) The procedure in relation to the sale of lands under subsection 1 and the provisions applicable to deeds and the redemption of lands following the sale shall be the same as nearly as possible as in the case of the sale of lands by the treasurer of a county under *The Municipal Act*, but the commissioner shall not purchase such land.

R.S.O. 1970,
c. 284

Notice of
adjourned
sale

(3) The secretary-treasurer shall give notice in the advertisement of an adjourned sale that if no price is offered for any land or any interest therein at the adjourned sale, the land or the interest therein of the owner or person liable for the statute labour in arrear may be forfeited to the Crown and if, at the adjourned sale, no price is in fact offered, he shall forthwith notify the Minister of Revenue accordingly giving a description of the land, the name of the owner or person liable for the statute labour in arrear and the amount of the arrears together with any penalties, interest, charges and costs that may be payable in respect thereof.

Forfeiture

(4) Upon notification by the secretary-treasurer that no price has been offered for any land or any interest therein at an adjourned sale, the Minister of Revenue may declare the land or the interest therein forfeited to the Crown as provided in *The Provincial Land Tax Act* in the case of land or the interest therein in respect of which the taxes imposed under that Act remain unpaid for a period of two years and the provisions of *The Provincial Land Tax Act* apply *mutatis mutandis* to the land or the interest therein so forfeited.

R.S.O. 1970,
c. 370

Where
forfeiture
annulled
on payment
of arrears

(5) Where forfeiture is annulled upon payment to the Minister of Revenue in addition to any amounts payable under *The Provincial Land Tax Act* by reason of forfeiture, of the amount of the arrears, penalties, interest, charges and costs referred to in subsection 1, the Minister of Revenue shall remit to the secretary-treasurer of the commissioners the amount of such arrears, penalties and interest, and to the Minister of Transportation and Communications such charges and costs.

s. 38,
enacted

5. The said Act is amended by adding thereto the following section:

Power to
erect
traffic
signs

R.S.O. 1970,
c. 202

38. The commissioners have power to erect and maintain any sign prescribed under *The Highway Traffic Act* in any

location under their jurisdiction and any sign erected by the commissioners shall be deemed to be validly erected and in force for the purpose of any prosecution or other proceeding brought under that Act.

6. This Act comes into force on the day it receives Royal Assent. Commence-
ment
7. The short title of this Act is *The Statute Labour Amendment Act, 1979*. Short title

An Act to amend
The Statute Labour Act

1st Reading

May 7th, 1979

2nd Reading

3rd Reading

MR. WILDMAN

(Private Member's Bill)

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Government
Publications

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BILL 79

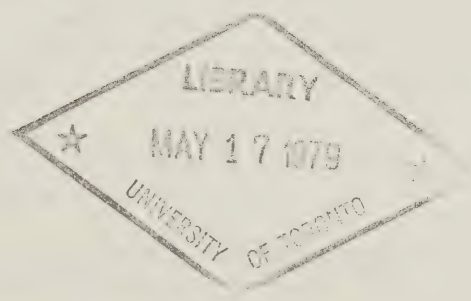
Private Member's Bill

3RD SESSION, 31ST LEGISLATURE, ¹ONTARIO
28 ELIZABETH II, 1979

Legislative Assembly
11

An Act respecting Election Public Opinion Polls

MR. SAMIS



EXPLANATORY NOTE

This Bill prohibits the publishing and broadcasting of political opinion polls during an election where the polls relate to the outcome of the election, or the standing of any leader, candidate or party in the election.

BILL 79

1979

An Act respecting Election Public Opinion Polls

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

(a) "candidate" means,

- (i) a person who is duly nominated as a candidate for an electoral district in accordance with *The Election Act*,

R.S.O. 1970,
c. 142

- (ii) a person who is nominated by a constituency association of a registered party in an electoral district as the official candidate of such party in the electoral district, or

- (iii) a person who, on or after the date of the issue of a writ for an election in an electoral district, declares himself to be an independent candidate at the election in the electoral district;

- (b) "election" means an election to elect a member or members to serve in the Assembly;

- (c) "leader" means a leader of a political party registered under *The Election Finances Reform Act, 1975*;

1975, c. 12

- (d) "party" means a political party registered under *The Election Finances Reform Act, 1975*;

- (e) "publication" means a communication to the general public by means of newspaper, magazine or other periodical, broadcasting, or outdoor advertising facilities, and "publish" has a corresponding meaning;

(f) "public opinion poll" includes public opinion survey.

Prohibition
re opinion
polls

2. No person shall procure for publication, cause to be published or consent to the publication of a public opinion poll in respect of the outcome of an election or the standing of any leader, candidate or party in the election during the period from the issue of the writ for the election until the time the voting polls are officially closed.

Offence

3. Every person who contravenes any provision of this Act and every director or officer of a corporation who knowingly concurs in such contravention is guilty of an offence and on summary conviction is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than one year, or to both.

Corporation

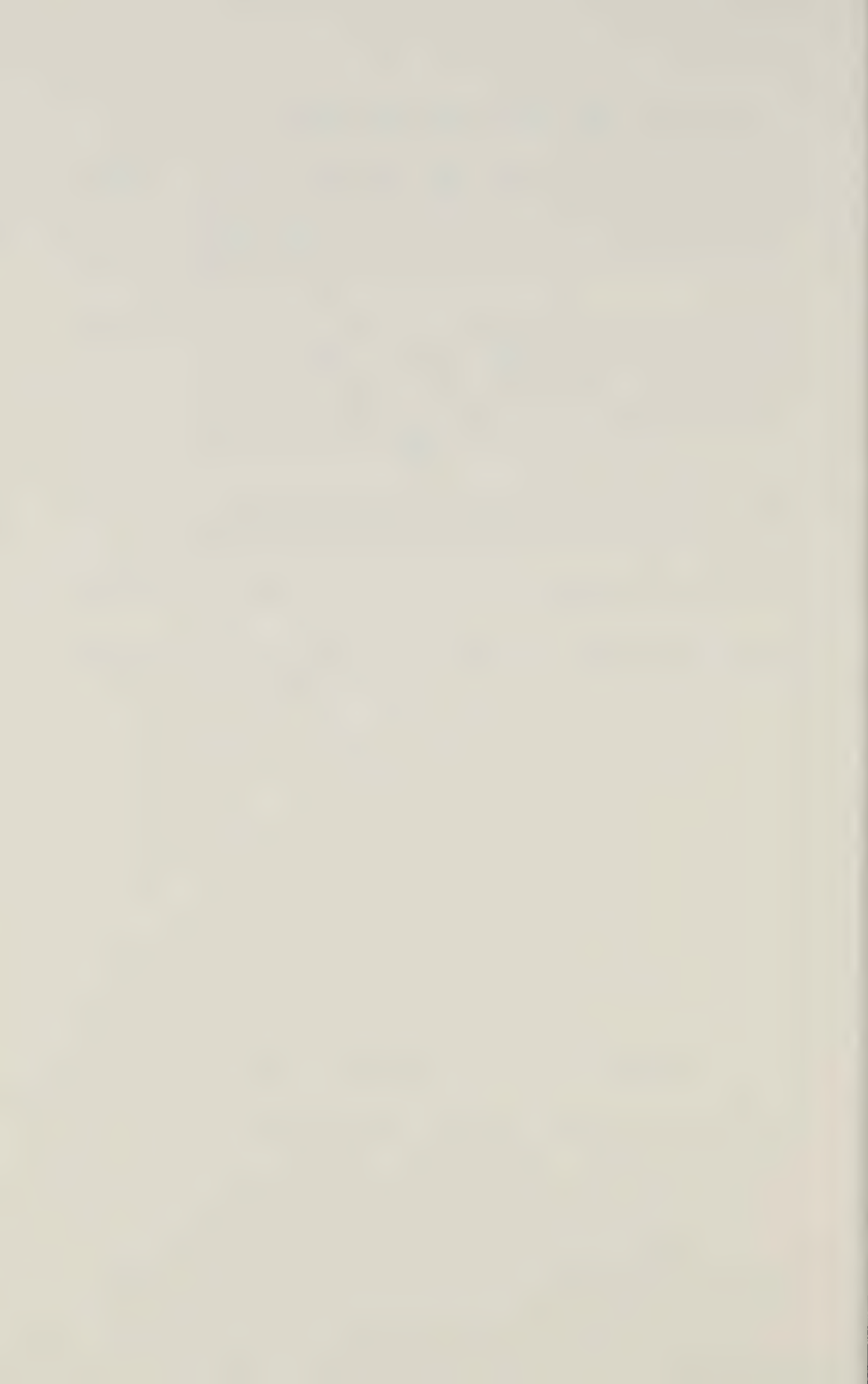
4. Where a corporation is convicted of an offence under section 3, the maximum penalty that may be imposed upon the corporation is \$10,000, and not as provided therein.

Commence-
ment

5. This Act comes into force on the day it receives Royal Assent.

Short title

6. The short title of this Act is *The Election Public Opinion Polls Act, 1979*.



An Act respecting Election
Public Opinion Polls

1st Reading

May 7th, 1979

2nd Reading

3rd Reading

MR. SAMIS

(Private Member's Bill)

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R16

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F BILL 80

Government
Publications

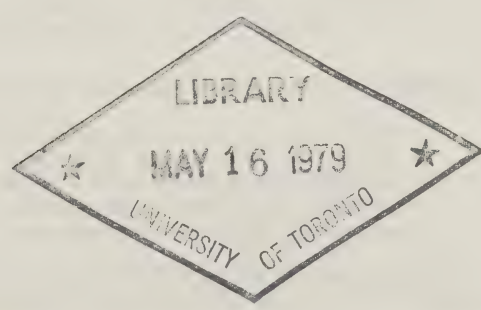
Government Bill

3RD SESSION, 31ST LEGISLATURE, ONTARIO
28 ELIZABETH II, 1979

it legislated

An Act to amend The Veterinarians Act

THE HON. W. NEWMAN
Minister of Agriculture and Food



EXPLANATORY NOTES

SECTION 1. Clauses *a* and *b* of subsection 1 of section 8 of the Act now read as follows:

(1) *The council may pass by-laws,*

(a) *respecting the admission and registration of members;*

(b) *fixing the examination fee, the annual registration fee and the penalty for default in payment of the latter.*

The authority to make by-laws is enlarged to provide for classes of registrations. The authority to make by-laws respecting the payment of fees is also enlarged.

SECTION 2. Subsection 2 of section 12 of the Act now reads as follows:

(2) *Where a member does not pay the prescribed fee on or before the 1st day of February of the year for which it is payable, his registration may, after inquiry, be suspended by the council, but any registration so suspended may be reinstated upon payment of the fee and such penalty, not exceeding \$25, as the by-laws prescribe.*

The maximum amount (\$25) that may be prescribed by by-law as a penalty for late payment of a prescribed fee is removed.

BILL 80

1979

An Act to amend The Veterinarians Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clauses *a* and *b* of subsection 1 of section 8 of *The Veterinarians Act*, being chapter 480 of the Revised Statutes of Ontario, 1970, are repealed and the following substituted therefor:

s. 8 (1) (*a*, *b*),
re-enacted

 - (a) respecting the admission and registration of members, prescribing classes of registrations and governing the requirements and qualifications for the granting of registrations or any class thereof and prescribing the terms and conditions on which registrations or any class thereof are granted;
 - (b) requiring the payment of fees by members and fees for registration, examinations and continuing education, including penalties for late payment, and fees for anything the registrar is required or authorized to do, and prescribing the amounts thereof.
2. Subsection 2 of section 12 of the said Act is repealed and the following substituted therefor:

s. 12 (2),
re-enacted

 - (2) Where a member does not pay the prescribed fee on or before the 1st day of February of the year for which it is payable, his registration may, after inquiry, be suspended by the council, but any registration so suspended may be reinstated upon payment of the fee and such penalty as the by-laws prescribe.

Default in
payment
3. This Act comes into force on the day it receives Royal Assent.

Commence-
ment
4. The short title of this Act is *The Veterinarians Amendment Act, 1979*.

Short title

An Act to amend
The Veterinarians Act

1st Reading

May 8th, 1979

2nd Reading

3rd Reading

THE HON. W. NEWMAN
Minister of Agriculture and Food

(Government Bill)

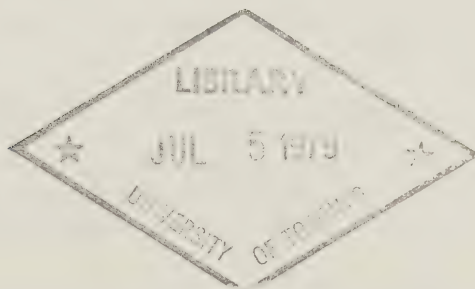
3
56
BILL 80

3RD SESSION, 31ST LEGISLATURE, ¹ONTARIO
28 ELIZABETH II, 1979

Legislative Assembly

An Act to amend The Veterinarians Act

THE HON. W. NEWMAN
Minister of Agriculture and Food



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

BILL 80

1979

An Act to amend The Veterinarians Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clauses *a* and *b* of subsection 1 of section 8 of *The Veterinarians Act*, being chapter 480 of the Revised Statutes of Ontario, 1970, are repealed and the following substituted therefor:

s. 8 (1) (*a, b*),
re-enacted

- (a) respecting the admission and registration of members, prescribing classes of registrations and governing the requirements and qualifications for the granting of registrations or any class thereof and prescribing the terms and conditions on which registrations or any class thereof are granted;
- (b) requiring the payment of fees by members and fees for registration, examinations and continuing education, including penalties for late payment, and fees for anything the registrar is required or authorized to do, and prescribing the amounts thereof.

2. Subsection 2 of section 12 of the said Act is repealed and the following substituted therefor:

s. 12 (2),
re-enacted

(2) Where a member does not pay the prescribed fee on or before the 1st day of February of the year for which it is payable, his registration may, after inquiry, be suspended by the council, but any registration so suspended may be reinstated upon payment of the fee and such penalty as the by-laws prescribe.

Default in
payment

3. This Act comes into force on the day it receives Royal Assent.
4. The short title of this Act is *The Veterinarians Amendment Act, 1979*.

Commence-
ment

Short title

An Act to amend
The Veterinarians Act

1st Reading

May 8th, 1979

2nd Reading

June 18th, 1979

3rd Reading

June 18th, 1979

THE HON. W. NEWMAN
Minister of Agriculture and Food

3
17 **BILL 81**

Government Bill

2-56
3RD SESSION, 31ST LEGISLATURE, ¹ONTARIO
28 ELIZABETH II, 1979 *1st Legislature H...*

**An Act to amend
The Hunter Damage Compensation Act**

THE HON. W. NEWMAN
Minister of Agriculture and Food



EXPLANATORY NOTES

The Hunter Damage Compensation Act now provides for compensation to be paid to farmers whose live stock or other property is damaged by hunters. The maximum amounts payable in respect of various species of live stock are presently set out in the Act.

The general purpose of the Bill is to remove from the Act the maximum amounts of compensation to be paid and to provide authority to prescribe maximum amounts by regulation.

SECTION 1. Subsections 2, 3 and 4 of section 3 of the Act now read as follows:

- (2) *Subject to subsections 3 and 4, the Minister may, in respect of an application made under subsection 1, pay to the applicant such amount as the Minister considers reasonable, but not exceeding the market value of the live stock or other property in respect of which payment is made.*
- (3) *No payment shall be made under subsection 2 of an amount in respect of,*
 - (a) *a head of cattle in excess of \$500;*
 - (b) *a goat in excess of \$100;*
 - (c) *a horse in excess of \$500;*
 - (d) *a head of sheep in excess of \$100; or*
 - (e) *a head of swine in excess of \$100.*
- (4) *Where an applicant is entitled to receive an amount under a contract of insurance against loss by reason of the death of or injury to live stock or damage to property in respect of which he has made application under subsection 1, the Minister shall apply an amount equal to that amount in reduction of any payment under subsection 2.*

The re-enactment of subsection 2 makes it clear that the amount of compensation is to be based on the market value at the time of death, injury or damage and not on the ultimate market value.

The present subsection 3 is re-enacted as subsection 4. The re-enactment is complementary to the general purpose of the Bill.

The present subsection 4 is re-enacted as subsection 3. The re-enactment clarifies how the amount of any payment received under a contract of insurance is to be taken into account.

SECTION 2. Section 5 of the Act authorizes the Lieutenant Governor in Council to make regulations respecting the matters set out in the clauses.

The added clause gives the Lieutenant Governor in Council the power to prescribe by regulation the maximum amounts of payments in respect of live stock and other property.

BILL 81

1979

An Act to amend The Hunter Damage Compensation Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsections 2, 3 and 4 of section 3 of *The Hunter Damage Compensation Act*, being chapter 215 of the Revised Statutes of Ontario, 1970, are repealed and the following substituted therefor: s. 3 (2-4),
re-enacted

(2) Subject to subsections 3 and 4, the Minister may, in respect of an application made under subsection 1, pay to the applicant such amount as the Minister considers reasonable, but not exceeding the market value of the live stock or other property at the time of the death, injury or damage in respect of which payment is made. Payment of
compensation

(3) Where an applicant receives an amount under a contract of insurance by reason of the death of or injury to live stock or damage to property for which compensation is payable under this Act, for the purpose of calculating the amount of compensation the market value of the live stock or other property shall be deemed to be reduced by that amount. Reduction
in market
value by
reason of
insurance

(4) No payment shall be made under subsection 2 of an amount in excess of the maximum amount prescribed in the regulations for the live stock or other property. Amount of
payment
limited

2. Section 5 of the said Act is amended by adding thereto the following clause: s. 5,
amended

(ea) prescribing maximum amounts for live stock and other property for the purposes of subsection 4 of section 3.

3. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-
ment

4. The short title of this Act is *The Hunter Damage Compensation Amendment Act, 1979*. Short title

An Act to amend
The Hunter Damage Compensation Act

1st Reading

May 8th, 1979

2nd Reading

3rd Reading

THE HON. W. NEWMAN
Minister of Agriculture and Food

(Government Bill)

3
5
BILL 81

3RD SESSION, 31ST LEGISLATURE, ¹ONTARIO
28 ELIZABETH II, 1979 *Legislative Assembly*

**An Act to amend
The Hunter Damage Compensation Act**

THE HON. W. NEWMAN
Minister of Agriculture and Food



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

BILL 81

1979

An Act to amend The Hunter Damage Compensation Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsections 2, 3 and 4 of section 3 of *The Hunter Damage Compensation Act*, being chapter 215 of the Revised Statutes of Ontario, 1970, are repealed and the following substituted therefor: s. 3 (2-4),
re-enacted

(2) Subject to subsections 3 and 4, the Minister may, in respect of an application made under subsection 1, pay to the applicant such amount as the Minister considers reasonable, but not exceeding the market value of the live stock or other property at the time of the death, injury or damage in respect of which payment is made. Payment of
compensation

(3) Where an applicant receives an amount under a contract of insurance by reason of the death of or injury to live stock or damage to property for which compensation is payable under this Act, for the purpose of calculating the amount of compensation the market value of the live stock or other property shall be deemed to be reduced by that amount. Reduction
in market
value by
reason of
insurance

(4) No payment shall be made under subsection 2 of an amount in excess of the maximum amount prescribed in the regulations for the live stock or other property. Amount of
payment
limited

2. Section 5 of the said Act is amended by adding thereto the following clause: s. 5,
amended

(ea) prescribing maximum amounts for live stock and other property for the purposes of subsection 4 of section 3.

3. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-
ment

4. The short title of this Act is *The Hunter Damage Compensation Amendment Act, 1979*. Short title

An Act to amend
The Hunter Damage Compensation Act

1st Reading

May 8th, 1979

2nd Reading

June 18th, 1979

3rd Reading

June 18th, 1979

THE HON. W. NEWMAN
Minister of Agriculture and Food

BILL 82

3RD SESSION, 31ST LEGISLATURE, ONTARIO
28 ELIZABETH II, 1979

**An Act to amend
The Dog Licensing and Live Stock and
Poultry Protection Act**

THE HON. W. NEWMAN
Minister of Agriculture and Food



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTES

The Dog Licensing and Live Stock and Poultry Protection Act now authorizes compensation to be paid to owners of live stock and poultry that have been killed or injured by dogs or wolves. Maximum amounts are set out in the Act for payments in respect of farm animals and poultry whereas the maximum amounts for fur-bearing animals and rabbits are prescribed by regulation.

The Act also provides for compensation to be paid where bee colonies are damaged by bears. The maximum amounts payable are set out in the Act.

The general purpose of the Bill is to remove from the Act the maximum amounts of compensation to be paid for the various animals and bees and to provide authority to prescribe such amounts by regulation.

SECTION 1. Subsection 13 of section 14 of the Act now reads as follows:

(13) *No municipality shall be liable to an owner for an amount in respect of,*

(a) *a head of cattle in excess of \$500;*

(aa) *a fur-bearing animal in excess of the maximum amount prescribed therefor in the regulations;*

(b) *a goat in excess of \$100;*

(c) *a horse in excess of \$500;*

(d) *a head of sheep in excess of \$100;*

(da) *a rabbit in excess of the maximum amount prescribed therefor in the regulations;*

(e) *a head of swine in excess of \$100; or*

(f) *poultry of one owner, killed or injured in any year, in excess of \$1,000.*

The re-enactment removes from the Act the maximum amounts payable in respect of live stock and poultry and is complementary to the general purpose of the Bill.

SECTION 2. Clause *d* of section 22 of the Act now reads as follows:

22. *The Lieutenant Governor in Council make make regulations,*

(d) *prescribing, for the purposes of subsection 13 of section 14, a maximum amount for,*

(i) *a fur-bearing animal or any species or class thereof, or*

(ii) *a rabbit or any class thereof.*

The re-enacted clause enlarges the power to make regulations prescribing maximum amounts so that it now covers all live stock and poultry as well as bees and hive equipment and is complementary to sections 1 and 3 of the Bill.

BILL 82

1979

**An Act to amend
The Dog Licensing and Live Stock and
Poultry Protection Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 13 of section 14 of *The Dog Licensing and Live Stock and Poultry Protection Act*, being chapter 133 of the Revised Statutes of Ontario, 1970, as amended by the Statutes of Ontario, 1975, chapter 86, section 2, is repealed and the following substituted therefor:

(13) No municipality shall be liable to an owner for an amount in respect of live stock or poultry in excess of the maximum amount prescribed therefor in the regulations.

2. Clause *d* of section 22 of the said Act, as enacted by the Statutes of Ontario, 1975, chapter 86, section 3, is repealed and the following substituted therefor:

(*d*) prescribing maximum amounts for,

(i) live stock and poultry or any species or class thereof for the purposes of subsection 13 of section 14, and

(ii) honey bees and hive equipment for the purposes of subsection 3 of section 23.

3. Subsection 3 of section 23 of the said Act, as enacted by the Statutes of Ontario, 1974, chapter 94, section 7, is repealed and the following substituted therefor:

(3) No payment in respect of a colony of honey bees shall exceed the maximum amount prescribed for honey bees and hive equipment in the regulations.

Part IV
(ss. 24, 25),
enacted

4. The said Act is amended by adding thereto the following Part.

PART IV

LIMITATION ON AMOUNT OF COMPENSATION

Amount of
payment
limited

24. Subject to subsection 13 of section 14, subsection 3 of section 23 and section 25, where compensation is payable under this Act, the amount payable shall not exceed the market value of the live stock, poultry, honey bees or hive equipment at the time of the death, injury or damage in respect of which payment is made.

Reduction
in market
value by
reason of
insurance

25. Where an owner receives an amount under a contract of insurance by reason of the death of or injury to live stock or poultry or damage to or the destruction of honey bees or hive equipment for which compensation is payable under this Act, for the purpose of calculating the amount of compensation the market value of the live stock, poultry, honey bees or hive equipment shall be deemed to be reduced by that amount.

Commence-
ment

5. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

6. The short title of this Act is *The Dog Licensing and Live Stock and Poultry Protection Amendment Act, 1979*.

SECTION 3. Subsection 3 of section 23 of the Act now reads as follows:

(3) *No payment in respect of a colony of honey bees shall exceed,*

(a) *\$50 for the hive equipment; and*

(b) *\$25 for the honey bees.*

The re-enactment removes from the Act the maximum amount of payment for damage to bees and hive equipment and is complementary to the general purpose of the Bill.

SECTION 4. The new section 24 provides that the amount of compensation payable shall not exceed the market value of live stock, etc., at the time of death, injury or damage.

The new section 25 provides that the market value of live stock, etc., shall be deemed to be reduced by the amount of any payment received under a contract of insurance.

An Act to amend
The Dog Licensing and Live Stock
and Poultry Protection Act

1st Reading

May 8th, 1979

2nd Reading

3rd Reading

THE HON. W. NEWMAN
Minister of Agriculture and Food

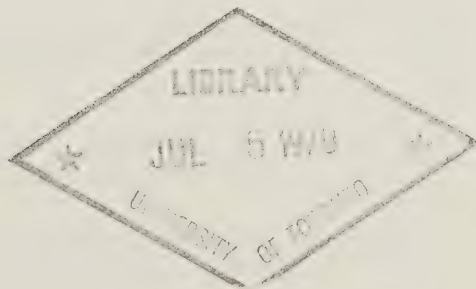
(Government Bill)

BILL 82

3RD SESSION, 31ST LEGISLATURE, ONTARIO
28 ELIZABETH II, 1979

**An Act to amend
The Dog Licensing and Live Stock and
Poultry Protection Act**

THE HON. W. NEWMAN
Minister of Agriculture and Food



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

BILL 82

1979

**An Act to amend
The Dog Licensing and Live Stock and
Poultry Protection Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 13 of section 14 of *The Dog Licensing and Live Stock and Poultry Protection Act*, being chapter 133 of the Revised Statutes of Ontario, 1970, as amended by the Statutes of Ontario, 1975, chapter 86, section 2, is repealed and the following substituted therefor:

(13) No municipality shall be liable to an owner for an amount in respect of live stock or poultry in excess of the maximum amount prescribed therefor in the regulations.

s. 14 (13),
re-enacted
Amount of
liability
limited

2. Clause *d* of section 22 of the said Act, as enacted by the Statutes of Ontario, 1975, chapter 86, section 3, is repealed and the following substituted therefor:

(*d*) prescribing maximum amounts for,

- (i) live stock and poultry or any species or class thereof for the purposes of subsection 13 of section 14, and
- (ii) honey bees and hive equipment for the purposes of subsection 3 of section 23.

3. Subsection 3 of section 23 of the said Act, as enacted by the Statutes of Ontario, 1974, chapter 94, section 7, is repealed and the following substituted therefor:

(3) No payment in respect of a colony of honey bees shall exceed the maximum amount prescribed for honey bees and hive equipment in the regulations.

Amount of
payment
limited

Part IV
(ss. 24, 25),
enacted

4. The said Act is amended by adding thereto the following Part.

PART IV

LIMITATION ON AMOUNT OF COMPENSATION

Amount of
payment
limited

24. Subject to subsection 13 of section 14, subsection 3 of section 23 and section 25, where compensation is payable under this Act, the amount payable shall not exceed the market value of the live stock, poultry, honey bees or hive equipment at the time of the death, injury or damage in respect of which payment is made.

Reduction
in market
value by
reason of
insurance

25. Where an owner receives an amount under a contract of insurance by reason of the death of or injury to live stock or poultry or damage to or the destruction of honey bees or hive equipment for which compensation is payable under this Act, for the purpose of calculating the amount of compensation the market value of the live stock, poultry, honey bees or hive equipment shall be deemed to be reduced by that amount.

Commence-
ment

5. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

6. The short title of this Act is *The Dog Licensing and Live Stock and Poultry Protection Amendment Act, 1979*.

An Act to amend
The Dog Licensing and Live Stock
and Poultry Protection Act

1st Reading

May 8th, 1979

2nd Reading

June 18th, 1979

3rd Reading

June 18th, 1979

THE HON. W. NEWMAN
Minister of Agriculture and Food

BILL 83

Private Member's Bill

3RD SESSION, 31ST LEGISLATURE, ONTARIO
28 ELIZABETH II, 1979

**An Act respecting the Purchase of Goods and Services
by the Government of Ontario and Government-supported
Institutions**

MR. MAKARCHUK

TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTE

The purpose of the Bill is to establish purchasing rules applicable to the Government of Ontario and institutions supported by the Government of Ontario to encourage the purchase of commodities and services that are substantially produced in Canada. The Bill provides that a public institution shall not purchase a commodity or service that is not substantially produced in Canada where an alternative commodity or service of comparable quality and price is substantially produced and available in Canada.

BILL 83

1979

An Act respecting the Purchase of Goods and Services by the Government of Ontario and Government-supported Institutions

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) "Canadian producer" means a manufacturer, producer or farmer, whether a corporation or an individual, that is resident in Canada;
- (b) "commodity" means tangible personal property of any kind, including food;
- (c) "competitive price" means a price for a commodity or service that is not more than 10 per cent above and not less than 10 per cent below the price of a comparable commodity or service;
- (d) "public institution" means,
 - (i) a ministry, commission, board or other administrative unit of the Government of Ontario, including any agency thereof, and
 - (ii) a corporation or unincorporated institution that receives financial support from the Government of Ontario constituting more than 50 per cent of its operating revenue;
- (e) "purchasing authority" means a person authorized to purchase commodities and services on behalf of a public institution.

2.—(1) Before a public institution makes a purchase of any commodity or service that is not substantially produced in

Purchasing
principle

Canada, the purchasing authority shall make a reasonable effort, according to the circumstances, to ascertain whether a commodity or service of similar quality and competitive price is produced and available for purchase in Canada.

Idem

(2) Where a purchasing authority for a public institution, in considering a purchase, determines that a commodity or service that is substantially produced in Canada has a similar quality and competitive price to a commodity or service of the same type that is not substantially produced in Canada, the public institution shall purchase only the commodity or service that is substantially produced in Canada.

Damages

3.—(1) Any Canadian producer who, having made known to a public institution the nature and price of the commodity or service it produces, suffers loss or damage as a result of the failure of the public institution to comply with a provision of section 2 may, in a court of competent jurisdiction, sue for and recover an amount equal to the loss or damage.

Limitation
on damages

(2) Notwithstanding subsection 1, an amount recovered under subsection 1 for loss or damage shall not exceed an amount equal to 10 per cent of the value of the contract that the plaintiff would have received if the public institution had complied with the provisions of section 2.

Application

4. This Act does not apply to a contract for purchase by a public institution where the amount of the purchase is less than \$100.

Regulations

5. The Lieutenant Governor in Council may make regulations defining “resident in Canada” and “substantially produced in Canada” for the purposes of this Act.

Commence-
ment

6. This Act comes into force on the day it receives Royal Assent.

Short title

7. The short title of this Act is *The Government Purchasing Act, 1979*.

An Act respecting
the Purchase of Goods and Services
by the Government of Ontario and
Government-supported Institutions

1st Reading

May 8th, 1979

2nd Reading

3rd Reading

MR. MAKARCHUK

(Private Member's Bill)

3
17 BILL 84

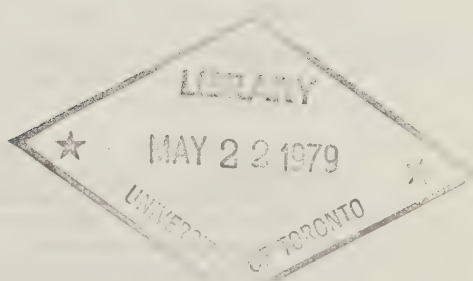
Government Bill

3RD SESSION, 31ST LEGISLATURE, ONTARIO
28 ELIZABETH II, 1979

Legislative Assembly

**An Act to revise
The Private Investigators and Security Guards Act**

THE HON. R. MCMURTRY
Solicitor General



TORONTO

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EXPLANATORY NOTE

The purpose of the Bill is to revise, update and extend the application of *The Private Investigators and Security Guards Act*.

Some of the features of the Bill are as follows:

1. The present legislation is extended to apply to burglar alarm agencies and agents and security consulting agencies and agents.
2. The Bill applies to in-house agents but such agents are not required to be licensed.
3. The definitions of a private investigator and a security guard are enlarged to apply to a wider range of activities.
4. The powers of the Registrar respecting inspections, investigations, enforcement and licensing are enlarged in keeping with similar powers in recent legislation.
5. The Private Investigation and Security Services Licensing Appeal Board is established and its composition, powers and procedures are provided for.
6. An appeal to the Board from decisions of the Registrar is provided for.
7. Decisions of the Board may be appealed to the Divisional Court.
8. An applicant for an agency licence may be required to furnish proof of liability insurance in an amount prescribed by the regulations.
9. The authority of the Lieutenant Governor in Council to make regulations is enlarged to provide for the regulation of advertising, the use of equipment and guard dogs, the use of automatic telephone-dialing devices and taped messages in a burglar alarm system, the design, components, installation, testing, servicing and monitoring of any such system, and the shutting down of any such system where any circumstance prescribed by the regulations exists.

BILL 84

1979

**An Act to revise
The Private Investigators and Security
Guards Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) "agency" means a private investigation agency, security guard agency, security consulting agency or burglar alarm agency;
- (b) "agent" means a private investigator, security guard, security consultant or burglar alarm agent;
- (c) "Board" means the Private Investigation and Security Services Licensing Appeal Board;
- (d) "burglar alarm agency" means the business of selling, providing, installing or servicing burglar alarm systems or of monitoring a signal from a premises protected by a burglar alarm system or of providing the services of burglar alarm agents;
- (e) "burglar alarm agent" means a person who sells, installs, services, tests or patrols a burglar alarm system or acts as an operator to receive signals or responds in person to alarm warnings of a burglar alarm system;
- (f) "burglar alarm system" means a system consisting of a device or devices to provide warnings against intrusion, including burglary, robbery, theft or vandalism, or attempted burglary, robbery, theft or vandalism;
- (g) "equity share" means a share of a class of shares that carries a voting right either under all circum-

stances or under some circumstances that have occurred and are continuing;

- (h) "licence" means a licence issued under this Act;
- (i) "licensee" means the holder of a licence;
- (j) "Minister" means the Solicitor General;
- (k) "person" means a natural person, an association of natural persons, a partnership or a corporation;
- (l) "private investigation agency" means the business of providing the services of private investigators;
- (m) "private investigator" means a person who, for hire or reward, investigates and furnishes information and includes a person who,
 - (i) searches for and furnishes information as to the personal character or actions of a person, or the character or kind of business or occupation of a person,
 - (ii) searches for offenders against the law,
 - (iii) searches for missing persons or property,
 - (iv) performs shopping or other services in civilian or plain clothes for a client for the purpose of reporting to him upon the conduct, integrity or trustworthiness of his employees or other persons, or
 - (v) performs services in civilian or plain clothes for the prevention or detection of shoplifting;
- (n) "Registrar" means the Registrar of Private Investigation and Security Services;
- (o) "regulations" means the regulations made under this Act;
- (p) "security consultant" means a person who, for hire or reward, advises and consults on security systems for premises or other property and does not otherwise act as a private investigator, security guard or burglar alarm agent and includes a person who inspects premises or other property for devices capable of intercepting private communications;
- (q) "security consulting agency" means the business of providing the services of security consultants;

(r) "security guard" means a person who, for hire or reward, guards or patrols for the purpose of protecting persons or property and includes a person who,

(i) on behalf of his employer, supervises and inspects security guards while they are guarding or patrolling,

(ii) guards or transports valuable property in an armoured vehicle or other vehicle whether or not such property is owned by his employer, or

(iii) accompanies a guard dog while the dog is guarding or patrolling;

(s) "security guard agency" means the business of providing the services of security guards or of guard dogs, or of both. R.S.O. 1970, c. 362, s. 1, *amended*.

2.—(1) This Act does not apply to,

Application
of Act

(a) a barrister or solicitor in the practice of his profession;

(b) consumer reporting agencies and personal information investigators registered under *The Consumer Reporting Act, 1973* while acting in the usual and regular scope of their employment; ^{1973, c. 97}

(c) collection agencies and collectors registered under *The Collection Agencies Act* while acting in the usual and regular scope of their employment, except as provided in subsection 2 of section 43; ^{R.S.O. 1970, c. 71}

(d) a person who is acting as a peace officer, except as provided in subsection 1 of section 44;

(e) insurance adjusters and their employees licensed or registered under *The Insurance Act* while acting in the usual and regular scope of their employment; ^{R.S.O. 1970, c. 224}

(f) insurance companies and their employees licensed or registered under *The Insurance Act* while acting in the usual and regular scope of their employment;

(g) an employee of a municipality as defined in *The Municipal Affairs Act* while acting within the scope of his employment; ^{R.S.O. 1970, c. 118}

(h) a person who sells or provides a burglar alarm system where no survey or inspection of the premises

to be protected by the system is carried out by him or his employee or a person acting on his behalf and he does not install, service, test, monitor or patrol the system;

- (i) a person who is not in the employ of a burglar alarm agency and who,
 - (i) installs a burglar alarm system where all specialized and final connections necessary to make the system operable are made by a licensed burglar alarm agent on the direction of his agency employer, or
 - (ii) acts as an operator to receive a signal from a burglar alarm system where such service is provided without remuneration;
- (j) a member of a Corps of Commissionaires while acting within the objects of its incorporation; and
- (k) any person or class of persons exempted by the regulations. R.S.O. 1970, c. 362, s. 2, *amended*.

Exemption
from
licensing

(2) An agent who is permanently employed by one employer in a business or undertaking other than the business of providing the services of agents and whose work is confined to the affairs of that employer is not required to be licensed under this Act.

Persons
deemed
registered
for purposes
of 1973, c. 97

(3) Every person who is licensed as a private investigation agency or a private investigator under this Act shall, so long as he is so licensed, be deemed to be registered under *The Consumer Reporting Act, 1973* as a consumer reporting agency or personal information investigator, as the case may be.

Application
of
1973, c. 97

(4) *The Consumer Reporting Act, 1973* applies to a private investigation agency and a private investigator only in respect of a consumer report, credit information and personal information, as those expressions are defined in that Act, obtained, furnished or stored by the agency or agent, as the case may be. *New*.

Registrar

3.—(1) There shall be a Registrar of Private Investigation and Security Services appointed by the Lieutenant Governor in Council who may exercise the powers and shall perform the duties conferred or imposed upon him by or under this Act.

(2) The Lieutenant Governor in Council may appoint one or more Deputy Registrars of Private Investigation and Security Services who shall act as and have all the powers and authority of the Registrar during the absence of the Registrar or his inability to act and who may do any act or thing that the Registrar is authorized to do by or under this Act when authorized so to do by the Registrar and such act or thing shall for the purposes of this Act be deemed to have been done by the Registrar. R.S.O. 1970, c. 362, s. 3, *amended*. Deputy Registrar

4.—(1) No person shall carry on or hold himself out as carrying on the business of an agency unless he is the holder of a licence therefor. R.S.O. 1970, c. 362, s. 4 (1), *part*, *amended*. No carrying on business unless holder of licence

(2) No licence to carry on the business of an agency shall be issued to any person unless, Qualifications for licence

- (a) he is a Canadian citizen or a person lawfully admitted to Canada for permanent residence and ordinarily resident in Canada;
- (b) where the applicant for the licence is a corporation, a majority of the members of the board of directors are Canadian citizens or persons lawfully admitted to Canada for permanent residence and ordinarily resident in Canada;
- (c) he has an office for the agency in Ontario approved by the Registrar; and
- (d) the person who will manage the business is ordinarily resident in Ontario.

(3) No licence to carry on the business of a private investigation agency shall be issued to any person where he or the person who will manage the business of the agency has been found guilty or convicted of an offence under the *Criminal Code* (Canada) that the Registrar considers relevant to the fitness of the person to carry on or manage the business and no pardon has been granted in respect of the discharge or conviction. *New*. Where no licence to be issued

R.S.C. 1970,
c. C-34

5.—(1) No branch office of an agency shall be opened or operated unless the person who carries on the business of the agency is the holder of a licence to operate such branch office. Branch office

(2) For the purposes of this Act, a branch office includes any place at which the public is invited to deal in respect of the services provided by the agency. *New*. What constitutes branch office

Employer
to ensure
agents
licensed

6. No person who is the holder of a licence to carry on business as an agency shall employ as an agent a person who is not the holder of a licence to act as such agent. R.S.O. 1970, c. 362, s. 5 (4), *amended*.

No acting
or holding
out unless
holder of
licence

7.—(1) Subject to subsection 2 of section 8, no person shall act or hold himself out as acting as an agent unless he is the holder of a licence to so act and is the employee of an agency licensed to carry on the business of providing the services of such an agent.

Qualifications
for licence

(2) No person shall be licensed as an agent unless he,

(a) is a Canadian citizen or a person lawfully admitted to Canada for permanent residence and ordinarily resident in Canada; and

(b) is eighteen years of age or over.

Where no
licence to be
issued
R.S.C. 1970,
c. C-34

(3) No person shall be licensed as a private investigator where he has been found guilty or convicted of an offence under the *Criminal Code* (Canada) that the Registrar considers relevant to his fitness to act as a private investigator and no pardon has been granted in respect of the discharge or conviction. *New*.

Application
for licence

8.—(1) Every applicant for a licence shall apply to the Registrar for the licence.

Person
carrying on
business
other than
as employee

(2) Where a person wishes to act as an agent otherwise than as an employee of an agency, he shall be deemed to be an agency and to be an employee of such agency and shall not act as such agent unless he is licensed as an agency and as an agent. *New*.

Application
for licence

9. An application for a licence under section 8 shall be in the prescribed form and shall be accompanied by the fee prescribed by the regulations and, in the case of an agency, shall be accompanied in addition by proof of liability insurance in the amount and a bond in the amount and form prescribed by the regulations. R.S.O. 1970, c. 362, s. 5 (1), *amended*.

Issue of
licence

10.—(1) The Registrar shall on application therefor issue a licence to a person to carry on business as an agency unless, after making such inquiry as he considers necessary, he is of the opinion that,

(a) such person does not comply with the requirements of this Act or the regulations for a licence;

- (b) such person has knowingly made or caused to be made any false or misleading statement in the application for the licence;
- (c) having regard to his financial position, such person cannot reasonably be expected to be financially responsible in the conduct of his business;
- (d) such person or the person who will manage the business is not competent to act responsibly in the conduct of the business that would be authorized by the licence;
- (e) the past conduct of such person or the person who will manage the business affords reasonable grounds for belief that the business will not be carried on in accordance with law and with honesty and integrity;
- (f) where such person is a corporation, partnership or association of natural persons,
 - (i) the officers or directors of the corporation or the members of the partnership or association of natural persons are not competent to act responsibly in the conduct of the business, or
 - (ii) the past conduct of the officers or directors of the corporation or of a shareholder who owns or controls 10 per cent or more of its issued and outstanding equity shares or of the members of the partnership or association of natural persons affords reasonable grounds for belief that the business will not be carried on in accordance with law and with honesty and integrity;
- (g) such person or the person who will manage the business is not in a position to observe or carry out the provisions of this Act and the regulations;
- (h) such person or the person who will manage the business does not have the experience and training prescribed by the regulations or experience and training that, in the opinion of the Registrar, is equivalent thereto;
- (i) such person or the person who will manage the business is carrying on activities that are, or will be, if the licence is issued, in contravention of this Act or the regulations;

- (j) such person or the person who will manage the business is engaged in or proposes to engage in any activity, in addition to carrying on the business, that may give rise to a conflict of interest;
- (k) the proposed name of the agency is so like or similar to the name of an existing agency as to be likely to cause confusion between them or to mislead persons into believing that the agency is such existing agency;
- (l) any other ground for refusal to issue prescribed by this Act or the regulations exists; or
- (m) for any other reason, to do so is not in the public interest.

Idem

(2) The Registrar shall on application therefor issue a licence to a person to act as an agent unless, after making such inquiry as he considers necessary, he is of the opinion that,

- (a) such person does not comply with the requirements of this Act or the regulations for a licence;
- (b) such person has knowingly made or caused to be made any false or misleading statement in the application for the licence;
- (c) the past conduct of such person affords reasonable grounds for belief that he will not act as an agent in accordance with law and with honesty and integrity;
- (d) such person is not in a position to observe or carry out the provisions of this Act and the regulations;
- (e) such person does not have the experience and training prescribed by the regulations or experience and training that, in the opinion of the Registrar, is equivalent thereto;
- (f) such person is engaged in or proposes to engage in any activity in addition to acting as an agent that may give rise to a conflict of interest;
- (g) any other ground for refusal to issue prescribed by this Act or the regulations exists; or
- (h) for any other reason, to do so is not in the public interest.

(3) Where the Registrar proposes to refuse to issue a licence, he shall serve notice of his proposal on the applicant. Notice of proposal to refuse

(4) A notice under subsection 3 shall inform the applicant that he is entitled to a hearing by the Registrar if he mails or delivers to the Registrar, within thirty days after the notice under subsection 3 is served on him, notice in writing requiring a hearing, and he may so require such a hearing. Notice of entitlement to hearing, etc.

(5) Where an applicant does not require a hearing by the Registrar in accordance with subsection 4, the Registrar may refuse to issue the licence. Power of Registrar where no hearing

(6) Where an applicant requires a hearing by the Registrar in accordance with subsection 4, the Registrar shall appoint a time for and hold the hearing and may, after the hearing, refuse to issue the licence. Power of Registrar where hearing held

(7) *The Statutory Powers Procedure Act, 1971* does not apply to an inquiry by the Registrar under subsection 1 or 2, notwithstanding anything contained therein. *New.* Non-application of 1971, c. 47

11.—(1) Every licensee that is a corporation shall notify the Registrar in writing within thirty days after the issue or the entry of a transfer of any shares of its capital stock or the happening of a condition by which shares of its capital stock acquire voting rights where such issue, transfer or happening results in, Notice of transfer of shares

- (a) any shareholder and shareholders associated with him beneficially owning or controlling at least 10 per cent of the total number of all issued and outstanding equity shares of such stock; or
- (b) any shareholder and shareholders associated with him who already beneficially owns or controls 10 per cent or more of the total number of all issued and outstanding equity shares of such stock increasing such holding.

(2) In calculating the total number of equity shares of the corporation beneficially owned or controlled for the purposes of this Act, the total number shall be calculated as the total of all the shares actually owned or controlled, but each share that carries the right to more than one vote shall be calculated as the number of shares equalling the total number of votes it carries. Idem

(3) Where a licensee that is a corporation is aware that a transfer that comes within the provisions of subsection 1 has taken place, it shall notify the Registrar in writing Idem

within thirty days after such knowledge came to the attention of its officers or directors, and not within thirty days of the entry of the transfer.

Associated
shareholder

(4) For the purposes of subsection 1, a shareholder shall be deemed to be associated with another shareholder if,

- (a) one shareholder is a company of which the other shareholder is an officer or director;
- (b) one shareholder is a partnership of which the other shareholder is a partner;
- (c) one shareholder is a company that is controlled directly or indirectly by the other shareholder;
- (d) both shareholders are companies and one shareholder is controlled directly or indirectly by the same individual or company that controls directly or indirectly the other shareholder;
- (e) both shareholders are members of a voting trust where the trust relates to shares of a corporation; or
- (f) both shareholders are associated within the meaning of clauses *a* to *e* with the same shareholder. *New.*

Notice to
Registrar

12.—(1) Every person licensed to carry on the business of an agency shall within five days notify the Registrar in writing of,

- (a) any change in the address of his office or any branch thereof;
- (b) any change in its officers; directors or members where the licensee is a corporation, partnership or association of natural persons;
- (c) any commencement or termination of employment of a person licensed under this Act;
- (d) any change in the relative financial interests of the members of a partnership or association of natural persons so licensed;
- (e) any change affecting the requirements set out in clause *a*, *b* or *d* of subsection 2 of section 4; and
- (f) any change affecting the management of the business. R.S.O. 1970, c. 362, s. 6, *amended.*

Idem

(2) Every person licensed to act as an agent shall within five days notify the Registrar in writing of,

- (a) any change in his address; and

- (b) any change affecting the requirements set out in clause *a* of subsection 2 of section 7.

(3) Where a person licensed to carry on the business of an agency or to act as an agent has been charged with an offence under the *Criminal Code* (Canada) or under this Act, he shall forthwith notify the Registrar in writing of the charge and the particulars thereof. *New.*

Notice to Registrar where licensee charged with offence
R.S.C. 1970, c. C-34

13.—(1) Where a person who is licensed to carry on the business of an agency dies, the Registrar may grant to his executor or administrator a temporary licence for such agency and all licensed employees of the deceased licensee at the time of his death shall be deemed to be licensed as employees of such executor or administrator.

Temporary licence

(2) A temporary licence expires at the end of the term thereof specified in the licence or otherwise as provided by the regulations. R.S.O. 1970, c. 362, s. 9 (2, 3), *amended.*

Expiry of temporary licence

14.—(1) A licence is not transferable. R.S.O. 1970, c. 362, s. 10.

Licence not transferable

(2) A licence or a renewal of a licence is subject to such terms and conditions as are imposed from time to time by the Registrar or prescribed by the regulations, or both, and the Registrar is empowered to impose terms and conditions and to remove or alter terms and conditions that he imposes as he considers proper. *New.*

Imposition of terms and conditions

15. Immediately upon the receipt of a licence to carry on the business of an agency, the licensee shall cause it to be displayed in a conspicuous place in the office or branch office of the business for which it is issued and shall keep it displayed. R.S.O. 1970, c. 362, s. 12, *amended.*

Displaying licence

16. Every person who is licensed to carry on the business of an agency shall forward the agency licence to the Registrar immediately upon the termination of the business of the agency. R.S.O. 1970, c. 362, s. 13 (3), *amended.*

Surrender of licence

17. No person shall carry on the business of an agency in a name other than that in which he is licensed. *New.*

Name of business

18.—(1) Every applicant for renewal of a licence shall apply to the Registrar in accordance with this Act and the regulations and not less than sixty days prior to the expiration of the licence. R.S.O. 1970, c. 362, s. 11 (2), *amended.*

Renewal of licence

(2) Subject to subsection 2 of section 19, where application has been made in compliance with subsection 1, the existing

Continuation of licence pending renewal

licence is deemed not to have expired until the applicant has received the decision of the Registrar on his application for renewal. *New.*

Refusal
to renew,
suspension or
revocation

19.—(1) The Registrar may refuse to renew or may suspend or revoke a licence if, after a hearing, he finds that,

- (a) the licensee would be disentitled to a licence for any reason specified in subsection 1 or 2 of section 10 if he were making application for the licence in the first instance;
- (b) the licensee or, if the licensee is a corporation or partnership or association of natural persons, any of its officers, directors or members has contravened or has permitted any person under his control or direction to contravene any provision of this Act or the regulations or any order of the Registrar or any term or condition of the licence; or
- (c) any other ground for refusal to renew, suspension or revocation prescribed by the regulations exists.

Provisional
revocation,
etc.

(2) Notwithstanding subsection 1, the Registrar may, by notice in writing served on a licensee and without a hearing, provisionally refuse to renew or revoke his licence where in the opinion of the Registrar it is necessary to do so for the immediate protection of the public and the Registrar so states in such notice giving his reasons therefor.

Notice of
entitlement
to hearing,
etc.

(3) A notice under subsection 2 shall inform the licensee that he is entitled to a hearing by the Registrar if he delivers to the Registrar, within thirty days after the notice under subsection 2 is served on him, notice in writing requiring a hearing, and he may so require such a hearing.

Power of
Registrar
where no
hearing

(4) Where a licensee does not require a hearing by the Registrar in accordance with subsection 3, his licence shall be deemed to have been revoked.

Power of
Registrar
where
hearing
held

(5) Where a licensee requires a hearing by the Registrar in accordance with subsection 3, the Registrar shall appoint a time for and hold the hearing and may, after the hearing, refuse to renew or may suspend or revoke the licence.

Surrender
of licence

(6) Where a licence is suspended or revoked, the licensee shall forthwith forward it to the Registrar. *New.*

Notice of
hearing

20.—(1) The notice of a hearing by the Registrar under section 10 or 19 shall afford the applicant or licensee a

reasonable opportunity to show or to achieve compliance before the hearing with all lawful requirements for the issue, renewal or retention of the licence.

(2) An applicant or licensee who is a party to proceedings in which the Registrar holds a hearing shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing. Examination of documentary evidence

21. Where the Registrar has refused to issue or renew or has suspended or revoked a licence after a hearing he may, at any time of his own motion or on the application of the person who was the applicant or licensee, vary or rescind his decision, but the Registrar shall not vary or rescind his decision adversely to the interests of any person without holding a rehearing to which such person is a party and may make such decision after such rehearing as he considers proper under this Act and the regulations. *New.* Variation of decision by Registrar

22.—(1) A board to be known as the Private Investigation and Security Services Licensing Appeal Board is hereby established and shall consist of not fewer than three persons who shall be appointed by the Lieutenant Governor in Council and the Lieutenant Governor in Council shall appoint one of the members as chairman. Board established

(2) The members of the Board shall be appointed to hold office for a term not exceeding three years and may be reappointed for further terms not exceeding three years each. Term of office

(3) The members of the Board shall be paid such remuneration and expenses as may be fixed by the Lieutenant Governor in Council. Remuneration

(4) The chairman shall have general supervision and direction over the conduct of the affairs of the Board and shall arrange the sittings of the Board and assign members to conduct hearings as circumstances may require. Duties of chairman

(5) Two members of the Board constitute a quorum, but the chairman may in writing authorize one member of the Board to hear and determine any matter and for such purpose such member may exercise all the jurisdiction and powers of the Board and his decision shall be a decision of the Board. *New.* Quorum

23.—(1) Where after a hearing the Registrar refuses to issue or renew or suspends or revokes a licence, the applicant Appeal to Board

or licensee may appeal to the Board by written notice delivered to the Registrar and filed with the Board within fifteen days after receipt of notice of the decision of the Registrar.

Extension of
time for
appeal

(2) The Board may extend the time for the giving of notice under subsection 1, either before or after expiration of such time, where it is satisfied that there are *prima facie* grounds for appeal and that there are reasonable grounds for applying for the extension and may give such directions as it considers proper consequent upon such extension.

Powers
of Board

(3) The Board shall hear an appeal under subsection 1 by way of a hearing *de novo* to determine whether the licence should be issued, renewed, suspended or revoked and may, after the hearing, confirm or alter the decision of the Registrar or direct the Registrar to do any act he is authorized to do under this Act and as the Board considers proper and, for such purpose, the Board may substitute its opinion for that of the Registrar.

Parties

24.—(1) The Registrar, the appellant and such other persons having a direct and immediate interest in the outcome of the appeal as are specified by the Board are parties to the proceedings before the Board under section 23.

Members
making
decision not
to have
taken part in
investigation,
etc.

(2) Members of the Board assigned to render a decision after a hearing shall not have taken part prior to the hearing in any investigation of the subject-matter of the hearing and shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but such members may seek legal advice from an adviser independent from the parties and in such case the nature of the advice should be made known to the parties in order that they may make submissions as to the law.

Recording
of evidence

(3) The oral evidence taken before the Board on the appeal shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the Supreme Court.

Findings
of fact

(4) The findings of fact of the Board on the appeal shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of *The Statutory Powers Procedure Act, 1971*.

1971, c. 47

Only
members at
hearing
to participate
in decision

(5) No member of the Board shall participate in a decision of the Board pursuant to a hearing unless he was present

throughout the hearing and heard the evidence and argument of the parties and, except with the consent of the parties, no decision of the Board shall be given unless all members so present participate in the decision. *New.*

25.—(1) Any party to proceedings before the Board under section 23 may appeal from the decision of the Board to the Divisional Court in accordance with the rules of court. Appeal to Divisional Court

(2) The Minister is entitled to be heard by counsel or otherwise upon the argument of an appeal under this section. Minister entitled to be heard

(3) Where notice of an appeal is served under this section, the Board shall forthwith file in the Divisional Court the record of the proceedings before it in which the decision was made which, together with a transcript of the evidence before the Board, if it is not part of the record of the Board, constitutes the record on the appeal. Record to be filed in court

(4) An appeal under this section may be made on any question that is a question of law alone and the court may confirm or alter the decision of the Board appealed from or direct the Registrar to do any act he is authorized to do under this Act or may refer the matter back to the Board for rehearing by it as the court considers proper. Powers of court on appeal

(5) Notwithstanding that an appeal has been made under this section, unless the Board otherwise directs, the decision of the Board is effective until the appeal is disposed of. Effect of decision of Board pending disposition of appeal
New.

26. Notwithstanding that the Registrar, the Board or the Divisional Court has refused to issue or renew or has suspended or revoked a licence, a further application for a licence may be made to the Registrar upon new or other evidence or where material circumstances have changed. Further application on new evidence
R.S.O. 1970, c. 362, s. 16, *amended.*

27.—(1) For the purpose of determining whether or not to issue, renew, suspend or revoke a licence, Investigation and inquiry by Registrar

- (a) the Registrar or any person authorized by him may make such investigation and inquiry as the Registrar considers sufficient regarding the character, financial position or competence of an applicant or licensee or any other matter relevant to the issue, renewal or retention of the licence and may require an

applicant or licensee to try such examinations to determine competence as the Registrar considers necessary; and

- (b) the Registrar may require further information or material to be submitted by an applicant or a licensee.

Powers
of person
making
inquiry
1971, c. 49

(2) For the purpose of an inquiry under this section, the person making the inquiry has the powers of a commission under Part II of *The Public Inquiries Act, 1971*, which Part applies to such inquiry as if it were an inquiry under that Act. *New.*

Investigation
on order of
Minister

28. The Minister may by order appoint a person to make an investigation into any matter to which this Act applies as may be specified in the Minister's order and the person appointed shall report the result of his investigation to the Minister and, for the purposes of the investigation, the person making the investigation has the powers of a commission under Part II of *The Public Inquiries Act, 1971*, which Part applies to such investigation as if it were an inquiry under that Act. *New.*

Investigation
by Registrar

29.—(1) Where the Registrar believes on reasonable and probable grounds that any person has,

- (a) contravened any of the provisions of this Act or the regulations; or

R.S.C. 1970,
c. C-34

- (b) committed an offence under the *Criminal Code* (Canada) or under the law of any jurisdiction that the Registrar considers relevant to his fitness for a licence under this Act,

the Registrar or any person authorized by him may make an investigation to ascertain whether such a contravention of the Act or regulation or the commission of such an offence has occurred.

Powers of
investigator

(2) For purposes relevant to the subject-matter of an investigation under this section, the person making the investigation may inquire into and examine the affairs of the person in respect of whom the investigation is being made and may,

- (a) upon production of his authority, enter at any reasonable time the premises of such person, not including any premises or part thereof occupied as living accommodation, and examine books, papers,

documents and things relevant to the subject-matter of the investigation; and

- (b) inquire into negotiations, transactions, loans, borrowings made by or on behalf of or in relation to such person and into property, assets or things owned, acquired or alienated in whole or in part by him or any person acting on his behalf that are relevant to the subject-matter of the investigation,

and for the purposes of the inquiry, the person making the investigation has the powers of a commission under Part II of *The Public Inquiries Act, 1971*, which Part applies to such inquiry as if it were an inquiry under that Act. ^{1971, c. 49}

(3) No person shall obstruct a person making an investigation under this section or withhold from him or conceal or destroy any books, papers, documents or things relevant to the subject-matter of the investigation. ^{Obstruction of investigator}

(4) Where a provincial judge is satisfied, upon an *ex parte* application by the person making an investigation under this section, that the Registrar has directed that the investigation be made and that such person is authorized by the Registrar and that there is reasonable ground for believing there are in any building, dwelling, receptacle or place any books, papers, documents or things relating to the person whose affairs are being investigated and to the subject-matter of the investigation, the provincial judge may, whether or not an inspection has been made or attempted under clause *a* of subsection 2, issue an order authorizing the person making the investigation, together with such police officer or officers as he calls upon to assist him, to enter and search, if necessary by force, such building, dwelling, receptacle or place for such books, papers, documents or things and to examine them, but every such entry and search shall be made between sunrise and sunset unless the provincial judge, by the order, authorizes the person making the investigation to make the search at night. ^{Search warrant}

(5) Any person making an investigation under this section may, upon giving a receipt therefor, remove any books, papers, documents or things examined under clause *a* of subsection 2 or under subsection 4 relating to the person whose affairs are being investigated and to the subject-matter of the investigation for the purpose of making copies of such books, papers or documents, but such copying shall be carried out with reasonable dispatch and the books, papers or documents in question shall be promptly thereafter returned to the person whose affairs are being investigated. ^{Removal of books, etc.}

Admissibility of copies (6) Any copy made as provided in subsection 5 and certified to be a true copy by the person making the investigation is admissible in evidence in any action, proceeding or prosecution as *prima facie* proof of the original book, paper or document and its contents.

Appointment of expert (7) The Registrar may appoint any expert to examine books, papers, documents or things examined under clause *a* of subsection 2 or under subsection 4. *New.*

Inspections **30.** The Registrar or any person authorized by him may at any reasonable time enter upon any premises in respect of which a licence is issued to make an inspection for the purpose of ensuring that the provisions of this Act and the regulations and the terms and conditions of the licence are being complied with, and no person shall obstruct the person inspecting or withhold or destroy, conceal or refuse to furnish any information or thing required by the person inspecting for the purposes of the inspection. *New.*

Special audit **31.**—(1) The Registrar or any person authorized by him may at any time enter upon any premises where the books, accounts or records of or pertaining to any licensed agency are kept or may be, and may inspect, study, audit, take extracts from such books, accounts or other records, and may, upon giving a receipt therefor, remove any such material that relates to the purpose of the inspection for the purpose of making a copy thereof, but such copying shall be carried out with reasonable dispatch and the material in question shall be promptly thereafter returned to the person being inspected, and no person shall obstruct the person inspecting or withhold or destroy, conceal or refuse to furnish any information or thing required by the person inspecting for the purposes of the inspection.

Admissibility of copy (2) Any copy made as provided in subsection 1 and certified to be a true copy by the person inspecting is admissible in evidence in any action, proceeding or prosecution as *prima facie* proof of the original. *New.*

Matters confidential **32.**—(1) Every person employed in the administration of this Act, including any person making an inquiry, inspection or an investigation under this Act, shall preserve secrecy in respect of all matters that come to his knowledge in the course of his duties, employment, inquiry, inspection or investigation and shall not communicate any such matters to any other person except,

(a) as may be required in connection with the administration of this Act and the regulations or any pro-

ceedings under this Act or the due enforcement of the law;

(b) to his counsel;

(c) with the consent of the person to whom the information relates; or

(d) to disclose that a licence has been issued to an agency or agent, the name and address of such agency and the name and address of the agency with whom such agent is employed.

(2) No person to whom subsection 1 applies shall be required to give testimony in any civil suit or proceeding with regard to information obtained by him in the course of his duties, employment, inquiry, inspection or investigation except in a proceeding under this Act. *New.*

Testimony
in civil
suit

33. Where the Registrar believes on reasonable and probable grounds that a person licensed under this Act is making false, misleading or deceptive statements in any advertisement, circular, pamphlet or similar material, or that the material is in contravention of the regulations, the Registrar may order the immediate cessation of the use of such material and section 23 applies with necessary modifications to the order in the same manner as to a decision by the Registrar refusing to issue a licence, and the order of the Registrar shall take effect immediately unless the Registrar otherwise directs. R.S.O. 1970, c. 362, s. 31, *amended.*

Misleading
advertising,
etc.

34.—(1) Any notice or order required to be given, delivered or served under this Act or the regulations is sufficiently given, delivered or served if delivered personally or sent by prepaid first class mail addressed to the person to whom delivery or service is required to be made at his last-known address.

Service
of notice
or order

(2) Where service is made by mail, the service shall be deemed to be made on the fifth day after the day of mailing unless the person on whom service is being made establishes that he did not, acting in good faith, through absence, accident, illness or other cause beyond his control receive the notice or order until a later date. *New.*

Idem

35.—(1) Where it appears to the Registrar that any person does not comply with any provision of this Act or the regulations or an order made under this Act, notwithstanding the imposition of any penalty in respect of such non-compliance and in addition to any other rights he may have, the Registrar may apply to a judge of the High Court for an

Restraining
order

order directing such person to comply with such provision, and, upon the application, the judge may make such order or such other order as the judge thinks fit.

Appeal

(2) An appeal lies to the Divisional Court from an order made under subsection 1. *New.*

Evidence
of authority

36.—(1) No private investigator, while acting as a private investigator, shall wear a uniform or carry or display any badge, shield, card or other evidence of authority except the licence issued to him under this Act or, where no licence has been issued to him, an identification card furnished to him by his employer in a form prescribed by the regulations and a business card containing no reference to licensing under this Act.

Licence to
be carried

(2) Every licensed private investigator, while acting as a private investigator, shall carry on his person the licence issued to him under this Act and shall produce it for inspection at the request of any person.

Use of
uniform

(3) No licensed private investigator who is also licensed as a security guard shall act as a private investigator while in uniform. R.S.O. 1970, c. 362, s. 25, *amended*.

Employment
by more than
one agency
prohibited

(4) No licensed private investigator shall seek or accept employment with more than one private investigation agency at one time. *New.*

Uniform to
be worn

37.—(1) Every security guard, while acting as a security guard, shall wear a uniform that is in accordance with the regulations. R.S.O. 1970, c. 362, s. 27, *amended*.

Licence,
etc., to
be carried

(2) Every licensed security guard, while acting as a security guard, shall carry on his person the licence issued to him under this Act and, if he is authorized to enforce municipal parking by-laws under section 44 and is so engaged, a document evidencing such authority and shall produce it or them for inspection at the request of any person.

Evidence of
authority

(3) No security guard, while acting as a security guard, shall carry or display any evidence of authority except his uniform, the licence issued to him under this Act or, where no licence has been issued to him, an identification card furnished to him by his employer in a form prescribed by the regulations and a document evidencing his authority to enforce municipal parking by-laws if he is so authorized under section 44. R.S.O. 1970, c. 362, s. 28, *amended*.

38.—(1) Every licensed security consultant, while acting as a security consultant, shall carry on his person the licence issued to him under this Act and shall produce it for inspection at the request of any person.

Licence to be carried

(2) No security consultant, while acting as a security consultant, shall carry or display any evidence of authority except the licence issued to him under this Act or, where no licence has been issued to him, an identification card furnished to him by his employer in a form prescribed by the regulations and a business card containing no reference to licensing under this Act. *New.*

Evidence of authority

39.—(1) Every burglar alarm agent who installs, services, tests or patrols a burglar alarm system, or who responds to an alarm warning from a burglar alarm system, shall, while acting as a burglar alarm agent, wear a uniform that is in accordance with the regulations.

Uniform to be worn

(2) Every licensed burglar alarm agent, while acting as a burglar alarm agent, shall carry on his person the licence issued to him under this Act and shall produce it for inspection at the request of any person.

Licence to be carried

(3) No burglar alarm agent, while acting as a burglar alarm agent, shall carry or display any evidence of authority except his uniform and the licence issued to him under this Act or, where no licence has been issued to him, an identification card furnished to him by his employer in a form prescribed by the regulations and a business card containing no reference to licensing under this Act. *New.*

Evidence of authority

40.—(1) Every burglar alarm system that is installed by an agency shall be comprised of the components and materials and shall be designed and installed in the manner prescribed by the regulations.

Installation, etc., of burglar alarm system

(2) Where a burglar alarm system installed by an agency before the regulations come into force is not in conformity therewith, the regulations may provide that the owner of the system shall bring the system into conformity therewith on or before a date specified therein.

Owner may be required to bring system into conformity with regulations

(3) Every agency that services, tests or monitors a burglar alarm system shall service, test or monitor the system in the manner prescribed by the regulations. *New.*

Servicing, testing and monitoring of burglar alarm system

41. No person engaged in any business or employment, whether licensed under this Act or otherwise, shall use the expression "private detective" in connection with such

Use of expression "private detective" prohibited

business or employment or hold himself out in any manner as a private detective. R.S.O. 1970, c. 362, s. 23.

Possession
of licence

42. No person other than the licensee to whom it has been issued shall have in his possession or display any licence issued under this Act. *New.*

Licensees
not to be
collectors
or bailiffs

43.—(1) No licensee shall act as a collector of accounts or bailiff, or undertake or hold himself out, or advertise as undertaking, to collect accounts or act as a bailiff for any person either with or without remuneration. R.S.O. 1970, c. 362, s. 29.

No collector
or bailiff
shall act
as private
investigator
R.S.O. 1970,
cc. 71, 38

(2) No person registered as a collection agency or a collector under *The Collection Agencies Act* or appointed as a bailiff under *The Bailiffs Act* shall carry on business as a private investigation agency or act as a private investigator or be eligible for licensing as a private investigation agency or a private investigator under this Act. *New.*

Peace
officer not
entitled to
be licensed

44.—(1) No peace officer or auxiliary member of a police force shall act as an agent or be eligible for licensing under this Act. *New.*

No agent
shall act
as police
officer

(2) No agent shall at any time,

(a) whether by agreement with the council of a municipality or a board of commissioners of police or otherwise, act as a member of a police force or as a municipal law enforcement officer or, subject to subsections 3 and 4, perform the duties of a police officer or municipal law enforcement officer; or

(b) hold himself out in any manner as providing the services or duties of or connected with police or as performing services or duties as a police officer. R.S.O. 1970, c. 362, s. 30, *amended.*

Contract
to provide
services
of security
guards

(3) A person carrying on the business of a security guard agency may contract with the owner or lessee of private property to provide the services of licensed security guards to enforce municipal by-laws relating to the parking of vehicles on that private property.

Security
guard not
to enforce
by-laws
without
authority

(4) No security guard shall enforce by-laws under a contract entered into under subsection 3 unless he is authorized to do so by the board of commissioners of police or, where there is no board, by the council of the municipality. *New.*

45.—(1) No person carrying on the business of an agency shall divulge information acquired by him in the course of the business to any person other than the client of the agency for whom the information was obtained, employees of the agency, police officers or otherwise as required by law. Information
not to be
divulged

(2) No agent or person employed by an agency in a capacity other than as an agent shall divulge information acquired by him in the course of his employment other than to his employer or other employees of his employer, the client, if any, for whom the information was obtained, police officers or otherwise as required by law. R.S.O. 1970, c. 362, s. 24, *amended*. Idem

46.—(1) Every person who,

Offences

- (a) knowingly furnishes or causes to be furnished any false information in any application under this Act or in any statement, form, return, information or material furnished or submitted under this Act or the regulations;
- (b) fails to comply with any order, direction or other requirement made under this Act or the regulations; or
- (c) contravenes any provision of this Act or the regulations,

and every director or officer of a corporation who knowingly concurs in such furnishing, failure or contravention is guilty of an offence and on summary conviction is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than one year, or to both.

(2) Where a corporation is convicted of an offence under subsection 1, the maximum penalty that may be imposed upon the corporation is \$25,000 and not as provided therein. Corporations

(3) No proceeding under subsection 1 shall be commenced more than two years after the facts upon which the proceeding is based first came to the knowledge of the Registrar. R.S.O. 1970, c. 362, s. 32, *amended*. Limitation

47.—(1) A statement as to,

Evidence

- (a) the licensing or non-licensing of any person;
- (b) the furnishing or non-furnishing of any document or material required or permitted to be furnished to the Registrar;

- (c) the time when the facts upon which proceedings are based first came to the knowledge of the Registrar; or
- (d) any other matter pertaining to such licensing, non-licensing, furnishing or non-furnishing,

certified by the Registrar is, without proof of the office or signature of the Registrar, admissible in evidence as *prima facie* proof of the facts stated therein for all purposes in any action, proceeding or prosecution. R.S.O. 1970, c. 362, s. 33, *amended*.

Idem

(2) Any document under this Act purporting to be signed by the Minister, or any certified copy thereof, is admissible in evidence in any action, proceeding or prosecution as *prima facie* proof that the document is signed by the Minister without proof of the office or signature of the Minister. *New*.

Regulations

48.—(1) The Lieutenant Governor in Council may make regulations,

- (a) exempting persons or classes of persons from this Act or the regulations or any provision thereof in addition to those exempted under section 2;
- (b) prescribing classes of licences and the terms and conditions to which each class is subject;
- (c) governing applications for licences and for renewals thereof;
- (d) providing for the expiration and renewal of licences;
- (e) requiring the payment of fees on application for licences or renewal of licences or any class thereof, and prescribing the amounts thereof;
- (f) requiring agencies or any class thereof to have and maintain a bond in such amount, form and terms and with such collateral security as are prescribed and providing for the forfeiture or cancellation of bonds, the disposition of the proceeds and the period that bonds shall subsist and respecting all matters subsequent to forfeiture or cancellation;
- (g) governing the form and content of advertising by agencies;

- (*h*) regulating the management and operation of offices of agencies or branches thereof and requiring approval thereof by the Registrar;
- (*i*) requiring and governing the books, accounts, files and records that shall be kept or not kept by agencies or agents;
- (*j*) governing the uniforms, badges and insignia that shall be worn by security guards and burglar alarm agents and requiring approval thereof by the Registrar and prohibiting the wearing of uniforms, badges and insignia not so approved;
- (*k*) prohibiting or regulating and controlling the use of equipment by agents;
- (*l*) governing the insignia and markings that may be used on vehicles and requiring approval thereof by the Registrar and prohibiting the use of insignia and markings not so approved;
- (*m*) governing contracts entered into by a person carrying on the business of an agency with persons who engage his services;
- (*n*) requiring agencies to make returns and furnish information to the Registrar;
- (*o*) prescribing forms and providing for their use;
- (*p*) requiring any information required to be furnished or contained in any form or return to be verified by affidavit;
- (*q*) prescribing grounds for the refusal to issue licences in addition to those grounds mentioned in subsections 1 and 2 of section 10;
- (*r*) prescribing grounds for the refusal to renew or the suspension or revocation of licences in addition to those grounds mentioned in clauses *a* and *b* of subsection 1 of section 19;
- (*s*) prohibiting or regulating and controlling the use of guard dogs;
- (*t*) prescribing the design of a burglar alarm system, the components and materials to be used in any such

system and the manner in which the system is to be installed, serviced, tested and monitored, and providing for the shutting down of a burglar alarm system where any circumstance prescribed by the regulations exists;

- (u) prohibiting or regulating and controlling the use of automatic telephone-dialing devices and taped messages to inform police forces of alarm warnings from a burglar alarm system;
- (v) governing the method of terminating the business of an agency;
- (w) requiring agencies or any class thereof to have and maintain liability insurance and prescribing the amount thereof;
- (x) prescribing any matter that by this Act is required or permitted to be or referred to as prescribed by the regulations. R.S.O. 1970, c. 362, s. 34, *amended*.

Adoption
of code in
regulations

(2) Any regulation may adopt by reference, in whole or in part, with such changes as the Lieutenant Governor in Council considers necessary, any code, standard or procedure, and may require compliance with any code, standard or procedure so adopted. *New*.

Repeals

49. *The Private Investigators and Security Guards Act*, being chapter 362 of the Revised Statutes of Ontario, 1970 and section 98 of *The Government Reorganization Act, 1972*, being chapter 1, are repealed.

Commence-
ment

50. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

51. The short title of this Act is *The Private Investigation and Security Services Act, 1979*.

An Act to revise
The Private Investigators and
Security Guards Act

1st Reading

May 11th, 1979

2nd Reading

3rd Reading

THE HON. R. MCMURTRY
Solicitor General

(Government Bill)

BILL 85

Private Member's Bill

3RD SESSION, 31ST LEGISLATURE, ONTARIO
28 ELIZABETH II, 1979 / 25

**An Act to provide
Political Rights for Public Servants**

MR. CASSIDY



TORONTO

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EXPLANATORY NOTE

This Bill is designed to give public servants the same political rights that all other citizens enjoy in Ontario. It covers civil servants, crown employees, employees of community colleges, and people working for agencies such as Ontario Hydro, the Workmen's Compensation Board, and the Ontario Northland Transportation Commission, but excludes Deputy Ministers, officers of similar status in Crown agencies, and other senior policy-making officials.

The deleted sections of *The Public Service Act* make it illegal for a public servant to canvass on behalf of a candidate in an election, to solicit funds for a political party or a candidate at any time, or to speak or to write a letter to the editor on "any matter that forms part of the platform of a provincial or federal political party". A public servant may only become a candidate for election after the writs are issued and is effectively barred from being a candidate if a nomination is held before that date. The candidate must take leave of absence without pay for a period of 4 to 5 weeks.

The Bill provides that public servants will be able to write, speak, contribute, solicit funds, work, join, hold office, and vote on behalf of, in, for, or to a political party or candidate in a federal or provincial election and protects public servants from punitive action by their superiors or from being forced to carry out partisan duties as a condition of their employment.

The deleted section of *The Crown Employees Collective Bargaining Act, 1972* contains the sections which are re-enacted in the Bill and also prohibits an employee organization from receiving money from public employees who are its members for activities carried on by, or on behalf of a political party, from paying out money to, or on behalf of, the political party, or from otherwise supporting a political party. The penalty for these activities is loss of bargaining rights. The Bill will give an employee organization the rights enjoyed by other trade unions, prevents it from compelling an employee to engage in political activity, and provides for a wider range of penalties.

BILL 85

1979

An Act to provide Political Rights for Public Servants

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) "agency" means any board, agency, or commission of the Crown in right of Ontario;
- (b) "public servant" means a person appointed in the service of the Crown by the Lieutenant Governor in Council, by the Civil Service Commission, or by a Minister, or a person employed in the service of the Crown or any agency of the Crown, but does not include any Deputy Minister or senior employee of the Crown or an agency with management or policy responsibilities;
- (c) "Tribunal" means the Ontario Public Service Labour Relations Tribunal as defined in section 1 of *The Crown Employees Collective Bargaining Act*, 1972, c. 67 1972.

2.—(1) Every public servant shall be entitled to exercise the following political rights, Political
rights

- (a) the right to vote;
- (b) the right to actively support a political party or a candidate for provincial or federal office;
- (c) the right to contribute to a political party at any time;
- (d) the right to solicit funds for a candidate or for a political party;

- (e) the right to be a member of a political party and to hold office in such party; and
- (f) the right to express views on matters that form part of the platform of a provincial or federal political party.

Idem

(2) The rights provided in subsection 1 are subject to the condition that,

- (a) the employee does not engage in political activities during working hours;
- (b) the employee does not associate his position in the service of the Crown with any political activity;
- (c) the employee does not speak in public or express views in writing for distribution to the public on any matter with which he is directly engaged in his employment with the Crown;
- (d) the employee respects his oath of office and secrecy, as provided under section 10 of *The Public Service Act*.

R.S.O. 1970,
c. 386

Partisan
work by
public
servants

3. No public servant shall be required by his employer to engage in work or activity of a partisan nature for a candidate or a political party either during or outside working hours and, notwithstanding the provisions of any other Act, refusal to perform such activities shall be a justifiable defence against any dismissal, transfer, or other disciplinary action.

Leave
of
absence

4. A public servant who proposes to become a candidate in a provincial or federal election shall inform his Minister or the chief officer of his agency, and,

- (a) may seek leave of absence without pay at any time after he is duly nominated by his party as its candidate; and
- (b) shall take leave of absence commencing on the day on which the writ for the election is issued or on the day on which he is nominated by his party, whichever date comes later; and
- (c) shall be granted leave with pay commencing on the day provided by statute for the nomination of candidates and ending on polling day,

and every such application shall be granted.

5. Where a public servant who is a candidate in a provincial or federal election is elected, he shall forthwith resign his position as a public servant. Resignation

6. Where a public servant who has resigned under section 5, Reappointment

(a) ceases to be an elected political representative within five years of his resignation; and

(b) applies for reappointment to his former position or to another position in the service of the Crown for which he is qualified, within three months of ceasing to be an elected political representative,

he shall be reappointed to the position upon its next becoming vacant.

7. Where a public servant has been granted leave of absence under section 4 and was not elected, or resigned his position under section 5 and was reappointed under section 6, the period of the leave of absence or resignation shall be computed in determining the length of his service for any purpose, and his service shall be deemed to be continuous for all purposes. Period of leave of absence

8. Every public servant who knowingly fails to comply with the requirements of this Act may be disciplined under the Act or regulation governing his employer. Disciplinary action

9.—(1) In this section, “employee organization” means an organization of employees formed for the purpose of regulating relations between the Crown in right of Ontario and public servants under this Act. Interpretation

(2) No employee organization shall discriminate against any employee because of age, sex, race, national origin, colour or religion. Prohibitions

(3) Where a public servant or the Crown in right of Ontario considers that an employee organization is in violation of section 9, a complaint may be lodged with the Tribunal, which shall conduct a public hearing to consider the matter and which may, Tribunal

(a) dismiss the complaint; or

(b) withdraw bargaining rights from the employee organization involved; or

(c) levy a fine; or

(d) take such other disciplinary action as it considers appropriate.

R.S.O. 1970,
c. 386, ss. 12-16,
repealed

10. Sections 12, 13, 14, 15 and 16 of *The Public Service Act*, being chapter 386 of the Revised Statutes of Ontario, 1970, are repealed.

1972, c. 67,
s. 1 (1) (h),
repealed

11. Clause *h* of subsection 1 of section 1 of *The Crown Employees Collective Bargaining Act, 1972*, being chapter 67 of the Statutes of Ontario, 1972, is repealed.

Short title

12. The short title of this Act is *The Public Servants Political Rights Act, 1979*.

An Act to provide
Political Rights for Public Servants

1st Reading

May 11th, 1979

2nd Reading

3rd Reading

MR. CASSIDY

(Private Member's Bill)

3RD SESSION, 31ST LEGISLATURE, ONTARIO
28 ELIZABETH II, 1979

An Act to amend The Pesticides Act, 1973

THE HON. H. C. PARROTT
Minister of the Environment

EXPLANATORY NOTES

SECTION 1. The reference to "Board" is changed from "Pesticides Appeal Board" to "Environmental Appeal Board under Part X of *The Environmental Protection Act, 1971*".

SECTION 2. Section 12 of the Act established the Pesticides Appeal Board, provided for the appointment of a chairman, fixed the quorum and provided for the appointment of staff.

SECTION 3. Paragraph 21 of section 28 of the Act provides for the making of regulations providing for the remuneration and expenses of members of the Pesticides Appeal Board.

SECTION 4. The section provides for the continuance of matters not completed by the Pesticides Appeal Board on the coming into force of *The Pesticides Amendment Act, 1979*.

BILL 86

1979

An Act to amend The Pesticides Act, 1973

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Paragraph 2 of subsection 1 of section 1 of *The Pesticides Act*, s. 1 (1).
1973, being chapter 25, is repealed and the following sub- par. 2,
stituted therefor: re-enacted
 2. "Board" means the Environmental Appeal Board
under Part X of *The Environmental Protection Act*, 1971, c. 86
1971.
2. Section 12 of the said Act is repealed. s. 12,
repealed
3. Paragraph 21 of section 28 of the said Act is repealed. s. 28,
par. 21,
repealed
- 4.—(1) The Environmental Appeal Board shall exercise the Transitional
powers and perform the duties of the Pesticides Appeal
Board in relation to any matter in respect of which the
Pesticides Appeal Board has not completed its duties
before the coming into force of this Act.
- (2) The Environmental Appeal Board may hold a fresh Idem
hearing in any matter referred to in subsection 1 where
the chairman of the Environmental Appeal Board in his
discretion is of the opinion that to do so is necessary or
advisable.
- (3) Any action taken or notice given by the Pesticides Idem
Appeal Board in respect of a matter referred to in sub-
section 1 shall be deemed to have been taken or given,
as the case may be, by the Environmental Appeal Board.
5. This Act comes into force on the day it receives Royal Assent. Commence-
ment
6. The short title of this Act is *The Pesticides Amendment Act*, Short title
1979.

An Act to amend
The Pesticides Act, 1973

1st Reading

May 14th, 1979

2nd Reading

3rd Reading

THE HON. H. C. PARROTT
Minister of the Environment

(Government Bill)

3
BILL 86

inventions

3RD SESSION, 31ST LEGISLATURE, ²ONTARIO,
28 ELIZABETH II, 1979

An Act to amend The Pesticides Act, 1973

THE HON. H. C. PARROTT
Minister of the Environment



BILL 86

1979

An Act to amend The Pesticides Act, 1973

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Paragraph 2 of subsection 1 of section 1 of *The Pesticides Act*, s. 1 (1), 1973, being chapter 25, is repealed and the following substituted therefor:
 2. "Board" means the Environmental Appeal Board under Part X of *The Environmental Protection Act*, 1971, c. 86 1971.
2. Section 12 of the said Act is repealed. s. 12, repealed
3. Paragraph 21 of section 28 of the said Act is repealed. s. 28, par. 21, repealed
- 4.—(1) The Environmental Appeal Board shall exercise the powers and perform the duties of the Pesticides Appeal Board in relation to any matter in respect of which the Pesticides Appeal Board has not completed its duties before the coming into force of this Act. Transitional
- (2) The Environmental Appeal Board may hold a fresh hearing in any matter referred to in subsection 1 where the chairman of the Environmental Appeal Board in his discretion is of the opinion that to do so is necessary or advisable. Idem
- (3) Any action taken or notice given by the Pesticides Appeal Board in respect of a matter referred to in subsection 1 shall be deemed to have been taken or given, as the case may be, by the Environmental Appeal Board. Idem
5. This Act comes into force on the day it receives Royal Assent. Commencement
6. The short title of this Act is *The Pesticides Amendment Act*, 1979. Short title

An Act to amend
The Pesticides Act, 1973

1st Reading

May 14th, 1979

2nd Reading

October 23rd, 1979

3rd Reading

October 23rd, 1979

THE HON. H. C. PARROTT
Minister of the Environment

3RD SESSION, 31ST LEGISLATURE, ¹ONTARIO
28 ELIZABETH II, 1979 ¹⁰

**An Act to amend
The Conveyancing and Law of Property Act**

THE HON. FRANK DREA
Minister of Consumer and Commercial Relations



EXPLANATORY NOTE

The section now provides that where a person who has a home on land leased from Ontario Housing Corporation acquires the title to the land, the land remains subject to the encumbrances that were a charge on the leasehold interest. The amendment expands this to include land leased from the Ontario Land Corporation or the Crown pursuant to the two Acts mentioned.

BILL 87

1979

An Act to amend The Conveyancing and Law of Property Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 2 of section 37 of *The Conveyancing and Law of Property Act*, being chapter 85 of the Revised Statutes of Ontario, 1970, as enacted by the Statutes of Ontario, 1975 (2nd Session), chapter 19, section 1, is repealed and the following substituted therefor:

(2) Where a person who has a leasehold estate in land under a lease, s. 37 (2),
re-enacted
Merger of
leasehold
in
freehold

(a) from Ontario Housing Corporation or Ontario Land Corporation; or

(b) from the Crown under *The Mining Act* or *The Public Lands Act*, R.S.O. 1970,
cc. 274, 380

acquires the freehold estate in the land, the leasehold estate merges in the freehold estate and upon the merging the freehold estate becomes subject to any interest to which the leasehold estate was subject immediately before the merging in the same ranking as to priorities as were then held.
2. This Act comes into force on the day it receives Royal Assent. Commence-
ment
3. The short title of this Act is *The Conveyancing and Law of Property Amendment Act, 1979*. Short title

An Act to amend
The Conveyancing and Law
of Property Act

1st Reading

May 15th, 1979

2nd Reading

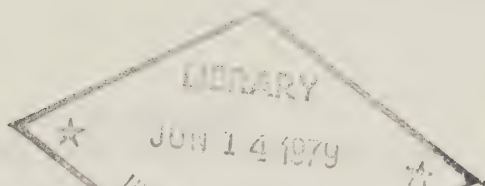
3rd Reading

THE HON. FRANK DREA
Minister of Consumer and
Commercial Relations

(Government Bill)

3
11
BILL 87

3RD SESSION, 31ST LEGISLATURE, ONTARIO
28 ELIZABETH II, 1979



**An Act to amend
The Conveyancing and Law of Property Act**

THE HON. FRANK DREA
Minister of Consumer and Commercial Relations

TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

BILL 87

1979

An Act to amend The Conveyancing and Law of Property Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 2 of section 37 of *The Conveyancing and Law of Property Act*, being chapter 85 of the Revised Statutes of Ontario, 1970, as enacted by the Statutes of Ontario, 1975 (2nd Session), chapter 19, section 1, is repealed and the following substituted therefor:

(2) Where a person who has a leasehold estate in land under a lease, Merger of
leasehold
in
freehold

(a) from Ontario Housing Corporation or Ontario Land Corporation; or

(b) from the Crown under *The Mining Act* or *The Public Lands Act*, R.S.O. 1970,
cc. 274, 380

acquires the freehold estate in the land, the leasehold estate merges in the freehold estate and upon the merging the freehold estate becomes subject to any interest to which the leasehold estate was subject immediately before the merging in the same ranking as to priorities as were then held.

2. This Act comes into force on the day it receives Royal Assent. Commence-
ment
3. The short title of this Act is *The Conveyancing and Law of Property Amendment Act, 1979*. Short title

An Act to amend
The Conveyancing and Law
of Property Act

1st Reading

May 15th, 1979

2nd Reading

May 24th, 1979

3rd Reading

May 24th, 1979

THE HON. FRANK DREA
Minister of Consumer and
Commercial Relations

BILL 88

Government Bill

3RD SESSION, 31ST LEGISLATURE, ONTARIO
28 ELIZABETH II, 1979

**An Act to amend
The Ontario Highway Transport Board Act**

THE HON. J. W. SNOW
Minister of Transportation and Communications



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTES

SECTION 1. The Act now provides that the chairman of the Board may authorize one member to dispose of applications or references to the Board. The provisions as recast extend this power to a rehearing or review under section 17 of the Act.

SECTION 2. Section 13 of the Act now provides that an order or certificate is effective if signed by two members, one of whom is the chairman or vice-chairman. The amended provision renders an order, etc., effective if signed by a majority of members hearing the matter. The matters referred to are also extended to correspond with the new section 6 of the Act.

BILL 88

1979

An Act to amend The Ontario Highway Transport Board Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 6 of *The Ontario Highway Transport Board Act*, being chapter 316 of the Revised Statutes of Ontario, 1970, as re-enacted by the Statutes of Ontario, 1971, chapter 50, section 62, is repealed and the following substituted therefor: s. 6,
re-enacted

6.—(1) The chairman may authorize one member of the Board to hear and dispose of any application or reference to the Board, or any rehearing or review under section 17, and that member may exercise all the powers of the Board with respect thereto. One member
may be
authorized
to hear
application,
etc.

(2) Any decision, order, certificate, report or recommendation of a member of the Board made under subsection 1 shall be deemed to be a decision, order, certificate, report or recommendation of the Board for the purposes of this Act. Decision
of member

2. Section 13 of the said Act is repealed and the following substituted therefor: s. 13,
re-enacted

13.—(1) An order, certificate, report or recommendation made after a hearing is effective upon being signed, Signing
of order,
etc.

(a) by the majority of the members who heard the matter; or

(b) where the matter was heard by a member sitting alone or by two members, by that member or those members, as the case may be.

(2) Every order, certificate, report or recommendation which subsection 1 does not apply is effective upon being signed by two members of the Board. Idem

Idem

(3) Every document other than an order, certificate, report or recommendation issued by the Board shall be signed by a member of the Board.

s. 18b (4),
re-enacted

- 3.** Subsection 4 of section 18b of the said Act, as enacted by the Statutes of Ontario, 1971, chapter 50, section 62, is repealed and the following substituted therefor:

Members at
hearing to
participate
in decision

(4) No member of the Board shall be a party to a decision, order, certificate, report or recommendation made after a hearing unless he was present throughout the hearing and heard the evidence and arguments of the parties and, except with the consent of the parties, no decision, order, certificate, report or recommendation shall be made unless all members so present participate in the making of the decision, order, certificate, report or recommendation.

Where no
majority
agreement

(5) Where a majority of the members of the Board hearing a matter cannot agree on a decision, order, certificate, report or recommendation, the chairman shall notify all parties to the hearing of the failure of a majority to agree and, upon the consent of the parties, assign another member of the Board to participate in the making of the decision, order, certificate, report or recommendation upon such terms as the parties may agree.

Idem

(6) Where the consent required under subsection 5 cannot be obtained, the matter shall be reheard under section 17 before a member or members of the Board who did not participate in the initial hearing.

Commence-
ment

- 4.** This Act comes into force on the day it receives Royal Assent.

Short title

- 5.** The short title of this Act is *The Ontario Highway Transport Board Amendment Act, 1979*.

SECTION 3. The new provisions provide that where the board is not able to come to a majority decision after a hearing, an additional member may be brought in, with the consent of all parties, to participate in making the decision.

Where consent cannot be obtained, a rehearing will be held.

An Act to amend
The Ontario Highway Transport Board Act

1st Reading

May 15th, 1979

2nd Reading

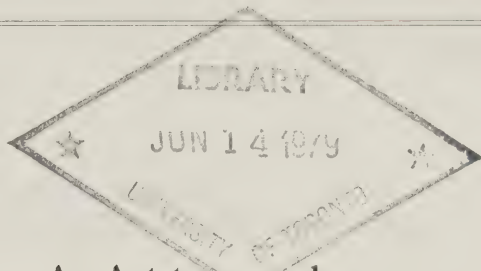
3rd Reading

THE HON. J. W. SNOW
Minister of Transportation and
Communications

(Government Bill)

BILL 88

3RD SESSION, 31ST LEGISLATURE, ONTARIO
28 ELIZABETH II, 1979



**An Act to amend
The Ontario Highway Transport Board Act**

THE HON. J. W. SNOW
Minister of Transportation and Communications

TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

BILL 88

1979

An Act to amend The Ontario Highway Transport Board Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 6 of *The Ontario Highway Transport Board Act*, being chapter 316 of the Revised Statutes of Ontario, 1970, as re-enacted by the Statutes of Ontario, 1971, chapter 50, section 62, is repealed and the following substituted therefor: s. 6,
re-enacted

6.—(1) The chairman may authorize one member of the Board to hear and dispose of any application or reference to the Board, or any rehearing or review under section 17, and that member may exercise all the powers of the Board with respect thereto. One member
may be
authorized
to hear
application,
etc.

(2) Any decision, order, certificate, report or recommendation of a member of the Board made under subsection 1 shall be deemed to be a decision, order, certificate, report or recommendation of the Board for the purposes of this Act. Decision
of member

2. Section 13 of the said Act is repealed and the following substituted therefor: s. 13,
re-enacted

13.—(1) An order, certificate, report or recommendation made after a hearing is effective upon being signed, Signing
of orders,
etc.

(a) by the majority of the members who heard the matter; or

(b) where the matter was heard by a member sitting alone or by two members, by that member or those members, as the case may be.

(2) Every order, certificate, report or recommendation to which subsection 1 does not apply is effective upon being signed by two members of the Board. Idem

Idem

(3) Every document other than an order, certificate, report or recommendation issued by the Board shall be signed by a member of the Board.

s. 18b (4),
re-enacted

- 3.** Subsection 4 of section 18b of the said Act, as enacted by the Statutes of Ontario, 1971, chapter 50, section 62, is repealed and the following substituted therefor:

Members at
hearing to
participate
in decision

(4) No member of the Board shall be a party to a decision, order, certificate, report or recommendation made after a hearing unless he was present throughout the hearing and heard the evidence and arguments of the parties and, except with the consent of the parties, no decision, order, certificate, report or recommendation shall be made unless all members so present participate in the making of the decision, order, certificate, report or recommendation.

Where no
majority
agreement

(5) Where a majority of the members of the Board hearing a matter cannot agree on a decision, order, certificate, report or recommendation, the chairman shall notify all parties to the hearing of the failure of a majority to agree and, upon the consent of the parties, assign another member of the Board to participate in the making of the decision, order, certificate, report or recommendation upon such terms as the parties may agree.

Idem

(6) Where the consent required under subsection 5 cannot be obtained, the matter shall be reheard under section 17 before a member or members of the Board who did not participate in the initial hearing.

Commence-
ment

- 4.** This Act comes into force on the day it receives Royal Assent.

Short title

- 5.** The short title of this Act is *The Ontario Highway Transport Board Amendment Act, 1979*.



An Act to amend
The Ontario Highway Transport Board Act

1st Reading

May 15th, 1979

2nd Reading

June 5th, 1979

3rd Reading

June 5th, 1979

THE HON. J. W. SNOW
Minister of Transportation and
Communications

3
BILL 89

Government Bill

3RD SESSION, 31ST LEGISLATURE, ONTARIO
28 ELIZABETH II, 1979

**An Act to amend
The Public Commercial Vehicles Act**

THE HON. J. W. SNOW
Minister of Transportation and Communications



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTES

SECTION 1. The interpretation section is being amended with the main change being as follows:

1. A definition of commercial motor vehicle is added to permit a distinction between the power driven segment of a truck and the trailer segment.
2. The change in the definition of a public commercial vehicle is complementary to section 13 of the Bill.
3. A definition of licence plate is added.
4. The concept of commercial cartage zones is introduced.
5. Changes are made into metric measurements.

BILL 89

1979

An Act to amend The Public Commercial Vehicles Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Clause *ab* of section 1 of *The Public Commercial Vehicles Act*, being chapter 375 of the Revised Statutes of Ontario, 1970, as enacted by the Statutes of Ontario, 1973, chapter 166, section 1, is repealed and the following substituted therefor:
 - (*ab*) “commercial cartage zone” means an area designated as a commercial cartage zone by the regulations;
 - (*ac*) “commercial motor vehicle” means a commercial motor vehicle as defined in *The Highway Traffic Act*; s. 1 (*ab*), re-enacted
 - (*ad*) “commercial vehicle” means a commercial motor vehicle as defined in *The Highway Traffic Act* and includes a trailer as defined in that Act and a dual-purpose vehicle.
- (2) The said section 1, as amended by the Statutes of Ontario, 1971, chapter 50, section 71 and 1973, chapter 166, section 1, is further amended by adding thereto the following clause:
 - (*ga*) “licence plate” means the licence plate issued under this Act in conjunction with a vehicle licence.
- (3) Clause *k* of the said section 1, as re-enacted by the Statutes of Ontario, 1973, chapter 166, section 1, is repealed and the following substituted therefor:
 - (*k*) “public commercial vehicle” means a commercial motor vehicle as defined in *The Highway Traffic Act* or a dual-purpose vehicle or the combination of a

commercial motor vehicle and trailer or trailers drawn by it, operated by the holder of an operating licence.

s. 1 (*m*),
amended

- (4) Clause *m* of the said section 1 is amended by striking out "500 gallons" in the seventh line and inserting in lieu thereof "2.3 kilolitres".

s. 1 (*p*),
amended

- (5) Clause *p* of the said section 1 is amended by striking out "three miles" in the third line and inserting in lieu thereof "five kilometres".

s. 2 (1) (*b*),
re-enacted

- 2.—(1) Clause *b* of subsection 1 of section 2 of the said Act, as re-enacted by the Statutes of Ontario, 1973, chapter 166, section 2, is repealed and the following substituted therefor:

(*b*) the commercial vehicle bears a licence plate issued to the operator; and

s. 2 (2),
re-enacted

- (2) Subsection 2 of section 2 of the said Act, as re-enacted by the Statutes of Ontario, 1973, chapter 166, section 2, is repealed and the following substituted therefor:

Exceptions

- (2) Subsection 1 does not apply to prohibit the transportation of,

(*a*) goods within a commercial cartage zone or an urban zone;

(*b*) fresh fruit or fresh vegetables grown in continental United States of America;

(*c*) farm or forest produce, other than live stock or milk, that are the produce of the farm or forest from which they are being transported;

(*d*) ready mixed concrete; or

(*e*) domestic and municipal garbage, refuse and trash.

s. 2,
amended

- (3) The said section 2, as amended by the Statutes of Ontario, 1971, chapter 50, section 71 and 1973, chapter 166, section 2, is further amended by adding thereto the following subsections:

Penalty

- (3) Every person to whom subsection 1 applies who operates a commercial vehicle on a highway for the trans-

SECTION 2.—Subsection 1. The change is complementary to section 13 of the Bill.

Subsection 2. Subsection 1 of section 2 of the Act prohibits the operation of a commercial vehicle for compensation without proper licences.

Subsection 2 of section 2 of the Act provides exceptions to the prohibition found in subsection 1 of section 2 of the Act. The list of goods that may be carried without licence is expanded.

Subsection 3. The new subsection 3 of section 2 of the Act provides a penalty different from the general penalty found in the Act where the contravention of subsection 1 of section 2 of the Act is in operating without an operating licence or in contravention of an operating licence. The fine is increased for subsequent offences by the new subsection 3*a* of section 2 of the Act.

SECTION 3. The provision makes it an offence for a person shipping goods to hire a transporter whom the shipper knows does not have the necessary licence.

SECTION 4. The changes are complementary to section 13 of the Bill.

SECTION 5. The new provisions permit the Minister to extend, for a period of up to seven days, the privileges in an operating licence under a special authority (see subsections 4-6 of section 5 of the Act).

Also, where there is a "North Bay Condition" in a certificate, that condition is deemed to be deleted (see subsection 7 of section 5 of the Act).

portation for compensation of goods of another person without an operating licence or in contravention of the terms and conditions of his operating licence is guilty of an offence and on summary conviction is liable,

- (a) for a first offence, to a fine of not less than \$250 and not more than \$5,000; and
- (b) for each subsequent offence, to a fine of not less than \$500 and not more than \$5,000.

(3a) Where a person who has previously been convicted of an offence mentioned in subsection 3 is convicted of the same or any other offence mentioned in subsection 3 within five years after the date of the previous conviction, the offence for which he is last convicted shall be deemed to be a subsequent offence for the purpose of clause *b* of subsection 3.

3. The said Act is amended by adding thereto the following section: s. 2a,
enacted

2a. Where, under the provisions of this Act, a licence is required for the transportation of goods, no person shall hire, directly or indirectly, or participate in an arrangement to hire a person to transport such goods by means of a commercial vehicle knowing that the person hired, by, for or on behalf of whom the commercial vehicle is operated, is not the holder of the required licence. Hiring of
unlicensed
commercial
vehicle

4.—(1) Subsection 1 of section 4 of the said Act is amended by striking out “an owner of a public commercial vehicle” in the first and second lines and inserting in lieu thereof “a holder of an operating licence”. s. 4 (1),
amended

(2) Subsection 2 of the said section 4 is amended by striking out “an owner of a public commercial vehicle” in the first and second lines and inserting in lieu thereof “a holder of an operating licence”. s. 4 (2),
amended

5. Section 5 of the said Act, as re-enacted by the Statutes of Ontario, 1971, chapter 50, section 71 and amended by the Statutes of Ontario, 1975 (2nd Session), chapter 7, section 1, is further amended by adding thereto the following subsections: s. 5,
amended

(4) Where the Minister is of the opinion that public necessity and convenience will be served thereby, he may grant to the holder of an operating licence a special authority that augments his operating licence to the extent set forth Special
authority

in the special authority, subject to the terms and conditions therein, for a period not exceeding seven days.

Act, etc.,
continues
to apply

(5) The provisions of this Act, except sections 6 and 12j, and the regulations, and the terms and conditions of the licensee's operating licence shall continue to apply during the period of validity of the special authority to the extent that they are not inconsistent therewith.

Delegation
by Minister

(6) The Minister may delegate to a member or members of the Board his powers under subsection 4.

Condition
deleted

(7) Every operating licence issued by the Minister under this section, every certificate issued by the Board under section 6 and every certificate issued before the 17th day of October, 1955, by the Ontario Municipal Board under this Act that contains a condition that refers to the City of North Bay and prohibits the transportation of goods to or from any points north of North Bay is hereby amended by the deletion of the condition.

s. 6 (1, 2),
re-enacted;
s. 6 (4),
repealed

6.—(1) Subsections 1 and 2 of section 6 of the said Act, as re-enacted by the Statutes of Ontario, 1971, chapter 50, section 71 and amended by the Statutes of Ontario, 1975 (2nd Session), chapter 7, section 2, and subsection 4 of the said section, as enacted by the Statutes of Ontario, 1975 (2nd Session), chapter 7, section 2, are repealed and the following substituted therefor:

Approval
of Board

R.S.O. 1970,
c. 316

(1) The Minister shall not issue an operating licence to any person unless the Board, upon the application of that person on the form provided therefor by the Ministry, has, after a hearing of the application as required by *The Ontario Highway Transport Board Act*, approved the issue of the licence to him on the ground that public necessity and convenience warrant the issue of the licence and will be served thereby, and has issued a certificate to that effect to the Minister.

Certificate

(2) Subject to subsections 3, 10 and 13, the Board may, in a certificate issued by it under this section, having regard to the requirements of public necessity and convenience,

(a) prescribe terms and conditions to govern the transportation of goods by public commercial vehicles pursuant to the licence;

(b) approve the conferring by the licence of special, exclusive or limited rights with respect to the operation of public commercial vehicles and with

SECTION 6.—Subsection 1. The changes are partly housekeeping and partly for the purposes of clarification. The clarification being to the effect that the Board has authority to stipulate in its certificate the term for which a licence is issued.

Subsections 2, 3 and 4. The purposes of several subsections to section 6 of the Bill is to permit different commencement dates.

The new subsections being added to section 6 of the Act provide for the issuance of a probationary operating licence to persons who have been operating without a licence between September 30, 1974 and October 1, 1976 and are also so operating at the time the application is made.

This privilege would be available to those who apply within 120 days after these provisions come into force.

The probationary licence would be valid for one year after which time the Board would review the matter and either revoke the certificate or issue a new certificate approving a regular operating licence.

Furthermore, provision is made for issuing a licence for "corridor" transporting without the necessity of proving provincial public necessity and convenience. The term "corridor" refers to the transporting of goods through Ontario without picking up or delivering the goods in Ontario (see subsection 9 of section 6 of the Act).

Also, special provisions are made in respect of certificates issued pertaining to the transportation of lumber products (see subsection 10 of section 6 of the Act).

respect to any highway or highways or portions thereof described in the certificate; and

- (c) prescribe that a licence expire at the end of a specified term, upon a specified day or upon the occurrence of a specified event.

- (2) The said section 6, as amended by the Statutes of Ontario, ^{s. 6, amended} 1975 (2nd Session), chapter 7, section 2 and 1976, chapter 22, section 1, is further amended by adding thereto the following subsection:

(9) Where the application referred to in subsection 1 is for an operating licence for only the transportation of goods through the Province of Ontario, public necessity and convenience shall be deemed to have been established for the purposes of that subsection upon the applicant filing with the Board evidence satisfactory to the Board that the applicant holds appropriate operating licences issued by the provinces where the transportation by the applicant will originate and terminate.

Meaning of public necessity and convenience for purposes of subs. 1

- (3) The said section 6 is further amended by adding thereto ^{s. 6, amended} the following subsection:

(10) The Board shall, in a certificate issued by it under this section pertaining to the transportation of logs, timber, rough or dressed lumber, laminated lumber, laminated wood blocks, wooden ties and poles, plywood, particle board, waferboard, fibreboard, veneer, bark, woodchips, shavings, sawdust and wood flour, having regard to the requirements of public necessity and convenience,

Lumber products

- (a) approve the conferring by the licence of rights with respect to the operation of public commercial vehicles in terms of,

- (i) transportation commencing within a region or regions as prescribed by the regulations and not otherwise geographically, and

- (ii) the maximum number of vehicles which may be operated; and

- (b) not limit the rights conferred by the licence to the operation of public commercial vehicles to the transportation of materials of specific consignors or consignees.

s. 6,
amended

- (4) The said section 6 is further amended by adding thereto the following subsections:

Applicants
who operated
between
September 30,
1974 and
October 1,
1976

(11) An application for a probationary operating licence or licences may be made to the Board by a person who has not been the holder of an operating licence at any time between the 30th day of September, 1974 and the 1st day of October, 1976.

Evidence in
support of
application

(12) In support of an application made under subsection 11, the person making the application shall submit to the Board evidence showing,

- (a) that, from the 1st day of October, 1974 to the 30th day of September, 1976, the applicant operated on a continuing basis one or more commercial vehicles transporting goods for compensation where the operation was not restricted to urban zones;
- (b) the number of commercial vehicles operated by the applicant;
- (c) a description of goods carried and names of the consignors of the goods;
- (d) the points of origin and destination of the goods described under clause *c*;
- (e) that persons named in clause *c* support the application;
- (f) that the applicant is financially capable of continuing to provide such transportation services in accordance with this Act and the regulations and of meeting his financial responsibilities to the persons mentioned in clause *e*; and
- (g) that the applicant was on the date of the application carrying on the business of transporting for compensation goods of another person where the operation was not restricted to urban zones.

Issuance of
certificate

(13) The Board, upon hearing an application made under subsection 11 and being satisfied with regard only to the evidence submitted under subsection 12, shall issue a certificate or certificates consistent with such evidence approving the issue of a probationary licence or licences, which certificate or certificates shall state the maximum number of commercial vehicles that may be operated.

(14) Notwithstanding subsection 1 and subject to subsection 17, where the Board has issued a certificate or certificates under subsection 13, the Minister shall issue a probationary licence or licences in accordance with the certificate or certificates containing such terms and conditions as set out in the certificate or certificates.

Issuance of licence

(15) An application under subsection 11 shall be made not later than 120 days after that subsection comes into force.

Time limit for application under subs. 11

(16) An applicant under subsection 11 shall file with his application a tariff of tolls showing all the rates and charges for the transportation of goods in respect of which the transportation is proposed to be provided or offered by the applicant.

Applicant to file tariff

(17) Before a licence is issued by the Minister pursuant to a certificate issued by the Board under subsection 13, the applicant shall file with the Ministry, for each motor vehicle that he proposes to operate under the licence, a safety standards certificate issued under *The Highway Traffic Act* not more than thirty days before the date of filing.

Requirements prior to issue of licence

R.S.O. 1970, c. 202

(18) A probationary operating licence issued under subsection 14 expires,

Validity of probationary operating licence

(a) upon the Board revoking its certificate under subsection 14; or

(b) where the Board issues a new certificate under subsection 19,

(i) upon the Minister issuing an operating licence under subsection 1 pursuant to the certificate, or

(ii) upon the expiration of three months after the issuance of the new certificate,

whichever first occurs.

(19) The Board shall, not less than one year after the date of issue of a probationary operating licence issued under subsection 14 and as soon after the expiration of the one year as is convenient to the Board, review under section 19 of *The Ontario Highway Transport Board Act* the certificate with respect to the licence and shall revoke the certificate or, issue a new certificate approving the issue of an operating licence.

Review by Board

R.S.O. 1970, c. 316

s. 6a,
enacted

7. The said Act is further amended by adding thereto the following section:

Where
certificate
revoked or
amended

6a. Where a certificate issued by the Board under section 6 is revoked or amended, the operating licence issued as a result of that certificate shall be revoked or amended accordingly.

s. 7 (1),
amended

- 8.—(1) Subsection 1 of section 7 of the said Act, as re-enacted by the Statutes of Ontario, 1971, chapter 50, section 71, is amended by striking out “in the prescribed form” in the third line and inserting in lieu thereof “on the form provided therefor by the Ministry”.

s. 7,
amended

- (2) The said section 7 is amended by adding thereto the following subsection:

Probationary
licence not
transferable

(1a) No probationary operating licence issued pursuant to an application under subsection 11 of section 6 is transferable.

s. 7 (2),
amended

- (3) Subsection 2 of the said section 7 is amended by inserting after “hearing” in the third line “as required by *The Ontario Highway Transport Board Act*”.

s. 9 (1),
re-enacted

- 9.—(1) Subsection 1 of section 9 of the said Act, as re-enacted by the Statutes of Ontario, 1971, chapter 50, section 71, is repealed and the following substituted therefor:

Expiry of
licence

(1) An operating licence for which a day for expiry has not been fixed expires on the 1st day of July in each year or on the expiry of all vehicle licences issued pursuant to the operating licence unless before such date or such expiry, as the case may be, the holder of the operating licence has applied for and acquired one or more vehicle licences for the period immediately following such date or such expiry, as the case may be.

s. 9,
amended

- (2) The said section 9 is amended by adding thereto the following subsection:

Where
subss. 1 and
2 do not
apply

(3) Subsections 1 and 2 do not apply to an operating licence that by its terms expires at the end of a specified term, upon a specified day or upon the occurrence of a specified event.

s. 10,
amended

- 10.—(1) Section 10 of the said Act, as re-enacted by the Statutes of Ontario, 1971, chapter 50, section 71, is amended by adding thereto the following clause:

SECTION 7. The provision added clarifies that an operating licence is dependent on a certificate issued by the Board.

SECTION 8.—Subsections 1 and 3. Housekeeping amendments.

Subsection 2. Subsection 1 of section 7 of the Act provides that an operating licence shall not be transferred without the approval of the Minister. The new subsection 1*a* of section 7 of the Act provides that an operating licence issued pursuant to an application under the new subsection 11 of section 6 of the Act cannot be transferred.

SECTION 9. The recasting of subsection 1 of section 9 of the Act is complementary to section 13 of the Bill.

The new subsection 3 of section 9 of the Act is complementary to the new clause *c* of subsection 2 of section 6 of the Act which clarifies that a licence may be issued for a specific term. Where there is a specific expiry time in the licence then the July 1st expiry date set out in the Act does not apply.

SECTION 10.—Subsection 1. Section 10 of the Act empowers the Minister to suspend or cancel an operating licence for any of the causes set out in that section. The amendment adds a further cause for suspending or cancelling an operating licence.

Subsection 2. The added clause has the effect of permitting the Minister to cancel an operating licence for corridor transportation where the holder of the licence ceases to hold the necessary licences outside Ontario.

SECTION 11. The concept of a commercial cartage zone is introduced. The Act will not apply to transportation of goods within a commercial cartage zone.

SECTION 12. The amendments are partly housekeeping and partly complementary to section 13 of the Bill.

(ba) where the past conduct of the applicant or licensee or, where the applicant or licensee is a corporation, of its officers or directors affords reasonable grounds for belief that the transportation service will not be operated in accordance with the law and with honesty and integrity.

(2) The said section 10 is further amended by striking out ^{s. 10,} "or" at the end of clause *c*, by adding "or" at the end of ^{amended} clause *d* and by adding thereto the following clause:

(e) where the licence was issued under subsection 1 of section 6, as a result of the application of subsection 9 of section 6, and the licensee ceases to hold any appropriate operating licence referred to in subsection 18 of section 6.

11. The said Act is further amended by adding thereto the follow- ^{s. 11,} ing section: ^{enacted}

11.—(1) A commercial cartage zone may be designated by the Minister from time to time in accordance with the recom- ^{Designation} ^{of} ^{commercial} ^{cartage zones} mendations of the Board.

(2) Where the Minister proposes to designate a com- ^{Referral} ^{to Board} mercial cartage zone or to vary the boundaries of a commercial cartage zone, he shall refer the proposal to the Board and the Board shall hold a public hearing and report thereon to the Minister with its recommendations.

(3) The Minister may, following receipt of the report and recommendations of the Board under subsection 2, require the Board to hold a new public hearing of the whole or any part of the proposal and to report thereon to the Minister with its recommendations. ^{Idem}

(4) A commercial cartage zone shall not exceed one ^{Limitation} regional municipality, county or district.

(5) For the purposes of this section, The District Municipality of Muskoka is deemed to be a regional municipality. ^{District} ^{Municipality} ^{of Muskoka}

12.—(1) Subsection 1 of section 12 of the said Act, as re-enacted ^{s. 12 (1),} by the Statutes of Ontario, 1971, chapter 50, section 71, ^{re-enacted} and amended by the Statutes of Ontario, 1973, chapter 166, section 5, is repealed and the following substituted therefor:

(1) Subject to section 12c, the holder of an operating ^{Issue of} ^{vehicle} ^{licence} licence is entitled, upon application to the Minister on the

form provided therefor by the Ministry and payment of the prescribed fee, to be issued vehicle licences by the Minister.

s. 12 (2),
re-enacted

(2) Subsection 2 of the said section 12, as amended by the Statutes of Ontario, 1973, chapter 166, section 5, is repealed and the following substituted therefor:

Limit
on vehicle
licences

(2) Notwithstanding subsection 1, the holder of an operating licence is not entitled to be issued or to hold more vehicle licences than he has commercial vehicles registered in his name or leased in accordance with this Act and the regulations.

s. 12a,
re-enacted

13. Section 12a of the said Act, as enacted by the Statutes of Ontario, 1971, chapter 50, section 71, is repealed and the following substituted therefor:

Vehicle
licence

12a.—(1) A vehicle licence authorizes the holder to operate a vehicle on which a licence plate is displayed as a public commercial vehicle providing the transportation designated in his operating licence.

Expiry of
vehicle
licence

(2) A vehicle licence expires at the end of the last day of the period for which the licence was issued.

Display of
licence
plate

(3) Subject to subsection 4, a licence plate shall not be displayed on a commercial motor vehicle unless the vehicle licence was issued for that vehicle.

Where
subs. 3 does
not apply

(4) Subsection 3 does not apply if,

- (a) the holder of the vehicle licence is within a class of licensees prescribed for the purposes of this subsection;
- (b) the commercial motor vehicle is within a class of motor vehicles prescribed for the purposes of this subsection; or
- (c) the operating licence under the authority of which the vehicle licence was issued is within a class prescribed for the purposes of this subsection.

Regulations

(5) For the purposes of subsection 4, the Lieutenant Governor in Council may make regulations prescribing,

- (a) classes of holders of operating licences;
- (b) classes of commercial motor vehicles;
- (c) classes of operating licences.

SECTION 13. At present, vehicle licences are issued only for specific commercial vehicles. The proposed changes to the Act permit the concept of a "floating" vehicle licence. This means the issuing of a vehicle licence that is not tied to a specific commercial vehicle.

Such classes of licences or vehicles as are prescribed by the regulations may operate or be operated under floating vehicle licences.

SECTION 14. The amended subsection 2 of section 12*b* of the Act serves to clarify the wording and is complementary to section 13 of the Bill.

The new subsection 3 of section 12*b* of the Act establishes the person who is the operator of a vehicle and the new subsection 4 of section 12*b* of the Act provides that the operator shall employ only vehicles that he owns or leases.

SECTIONS 15 AND 16. The amendments are complementary to section 13 of the Bill.

SECTION 17. This is a housekeeping amendment.

SECTION 18. The section repealed deals with the expiry of filed tariff tolls.

- 14.** Subsection 2 of section 12*b* of the said Act, as enacted by the Statutes of Ontario, 1971, chapter 50, section 71, is repealed and the following substituted therefor: s. 12*b* (2),
re-enacted

(2) No person shall operate a public commercial vehicle on a highway unless there is attached thereto, and exposed in a conspicuous position, a licence plate issued by the Minister to the operator of that vehicle showing the number of the vehicle licence issued for the current year. Licence
plate

(3) Where a licence plate is exposed on a commercial vehicle, the holder of the operating licence under the authority of which that licence plate and corresponding vehicle licence was issued shall be deemed to be the operator of that vehicle for the purposes of this Act unless the licence plate was exposed thereon without his consent, the burden of proof of which shall be on the licensee. Holder of
operating
licence
deemed
to be
operator

(4) The holder of an operating licence shall not operate a public commercial vehicle unless he is the registered owner of the vehicle under *The Highway Traffic Act* or he has entered into an agreement for a lease of the vehicle in accordance with this Act and the regulations. Ownership
of vehicle

R.S.O. 1970,
c. 202

- 15.** Section 12*c* of the said Act, as enacted by the Statutes of Ontario, 1971, chapter 50, section 71, is repealed and the following substituted therefor: s. 12*c*,
re-enacted

12*c*. Subject to section 12*i*, the Minister may refuse to issue or may cancel a vehicle licence if the applicant or licensee is not, or ceases to be, the holder of an operating licence or ceases to comply with subsection 2 of section 12. Refusal to
issue or
cancellation
of vehicle
licence

- 16.** Section 12*f* of the said Act, as re-enacted by the Statutes of Ontario, 1973, chapter 166, section 7, is amended by striking out "in the prescribed form" in the third line and inserting in lieu thereof "on the form provided therefor by the Ministry". s. 12*f*,
amended

- 17.** Section 12*k* of the said Act, as enacted by the Statutes of Ontario, 1971, chapter 50, section 71, is repealed and the following substituted therefor: s. 12*k*,
re-enacted

12*k*. A tariff of tolls shall be filed in a form provided by the Board and published and maintained available to the public. Form and
publication
of tariff

- 18.** Section 12*m* of the said Act, as enacted by the Statutes of Ontario, 1971, chapter 50, section 71, is repealed. s. 12*m*,
repealed

s. 12*n* (2-6),
re-enacted

- 19.** Subsections 2 to 6 of section 12*n* of the said Act, as enacted by the Statutes of Ontario, 1971, chapter 50, section 71, are repealed and the following substituted therefor:

Contents

(2) A bill of lading shall contain such information as may be prescribed by regulation together with an acknowledgment of receipt by the carrier or the freight forwarder of the goods therein described indicating whether the goods were received in apparent good order and condition and an undertaking to carry the goods for delivery to the consignee or the person entitled to receive the goods and shall be signed in full by, or on behalf of, the issuing carrier or issuing freight forwarder and by the consignor as accepting the terms and conditions contained, or deemed to be contained, therein.

Signed
copy to be
retained

(3) A signed copy of the bill of lading shall be retained by the consignor and by the carrier.

Copy of
bill of
lading to
be carried
by driver

(4) Every driver operating a public commercial vehicle shall carry on each trip a copy of the bill of lading and shall produce it when required for inspection by a member of the Ontario Provincial Police Force or an officer of the Ministry.

Idem

(5) Where a carrier is transporting goods on behalf of a freight forwarder, the driver transporting the goods by public commercial vehicle shall carry on each trip a copy of the bill of lading issued by the freight forwarder and shall produce it when required for inspection by a member of the Ontario Provincial Police Force or an officer of the Ministry.

Carrier's
waybill
carried in
lieu of
bill of
lading

(6) Notwithstanding subsections 4 and 5, a carrier's waybill, containing such information as may be prescribed by regulation, may be carried by any driver operating a public commercial vehicle or transporting goods on behalf of a freight forwarder and may be produced in lieu of a bill of lading when such is required for inspection by a member of the Ontario Provincial Police Force or an officer of the Ministry.

Carrier's
responsibility

(7) Where any shipment of goods is carried on more than one vehicle, the carrier shall ensure that every part of the shipment is accompanied by a copy of the bill of lading or by a waybill mentioned in subsection 6.

s. 15*a*,
re-enacted

- 20.** Section 15*a* of the said Act, as enacted by the Statutes of Ontario, 1971, chapter 50, section 71, is repealed and the following substituted therefor:

Vehicle
licence, etc.,
to be
carried by
driver

15*a*. Every driver of a public commercial vehicle on a highway shall carry or keep in a readily accessible place in

SECTION 19. The reference to Schedules A and B is being deleted. This is complementary to section 26 of the Bill.

Added to the matters which are to be part of a bill of lading is a statement by the carrier or freight forwarder as to the state of the goods when he received them.

Where a driver or carrier is required to produce a copy of a bill of lading, a memorandum of the bill will no longer suffice, but a "carrier's waybill" may be produced instead.

Where a shipment is carried by more than one vehicle, the carrier must ensure that a bill of lading or a waybill is in each vehicle.

SECTION 20. The amendment is a change of wording complementary to section 13 of the Bill.

SECTION 21. The amendment is complementary to section 19 of the Bill.

SECTION 22. Subsection 1 of section 15*c* of the Act now gives an officer of the Ministry authority to examine business records and documents of a holder of an operating licence in respect of a public commercial vehicle business. The amendment extends this authority to include the holder of a freight forwarder's licence.

SECTION 23. The minimum and maximum general penalties are increased from \$50 and \$1,000, respectively, to \$150 and \$1,500.

SECTION 24. Section 18 of the Act refers to the authority to make regulations. The clauses added expand the matters that may be dealt with by regulation. The amended clause *a* incorporates a change of a house-keeping nature.

the vehicle, the vehicle licence corresponding to the licence plate exposed on the vehicle together with a copy of the conditions set out in the operating licence under which the vehicle is being operated, which documents shall be produced upon the demand of a member of the Ontario Provincial Police Force or an officer of the Ministry.

21. Clause *d* of subsection 3 of section 15*b* of the said Act, as re-enacted by the Statutes of Ontario, 1973, chapter 166, section 10, is repealed and the following substituted therefor:

(*d*) copies of any bills of lading or waybills,

22. Subsection 1 of section 15*c* of the said Act, as enacted by the Statutes of Ontario, 1971, chapter 50, section 71, is amended by inserting after "vehicles" in the fourth line "or of the holder of a freight forwarder's licence relating to his business as a freight forwarder".

23. Section 16 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 166, section 12, is repealed and the following substituted therefor:

16. Every person who contravenes any of the provisions of this Act or the regulations is guilty of an offence and on summary conviction, where a penalty for the contravention is not otherwise provided for herein, is liable to a fine of not less than \$150 and not more than \$1,500.

- 24.—(1) Clause *a* of section 18 of the said Act, as re-enacted by the Statutes of Ontario, 1971, chapter 50, section 71, is repealed and the following substituted therefor:

(*a*) prescribing classes of licences and the forms of licences.

- (2) the said section 18, as amended by the Statutes of Ontario, 1971, chapter 50, section 71, 1973, chapter 166, section 13 and 1975 (2nd Session), chapter 7, section 3, is further amended by adding thereto the following clauses:

(*j*) prescribing the form and contents of a waybill;

(*t*) governing the issue and renewal of operating licences and classes of operating licences;

- (u) prescribing the qualifications of applicants for and holders of operating licences or any class or classes of operating licences;
- (v) exempting holders of any class or classes of operating licences from any of the provisions of section 12*j* or 12*n*;
- (w) prescribing terms which shall be incorporated into all leases referred to in subsection 4 of section 12*b*;
- (x) prescribing procedures for the filing and obtaining of approval of leases for the purposes of subsection 4 of section 12*b*.

ss. 19, 20,
enacted

25. The said Act is further amended by adding thereto the following sections:

Policy
statements

19.—(1) The Lieutenant Governor in Council may by order from time to time issue policy statements setting out matters to be considered by the Board when determining questions of public necessity and convenience and the Board shall take such matters into consideration together with such other matters as the Board considers appropriate where the hearing or review is commenced after the policy statement is gazetted.

Publication

(2) An order made under subsection 1 shall be published in *The Ontario Gazette*.

Investigation
directed by
Minister

20.—(1) The Minister may direct the Board to examine and investigate such matters relating to transportation policy as are referred to it by the Minister and the Board shall report thereon to the Minister.

Hearings
by Board

(2) For the purposes of subsection 1, the Board may hold such hearings as it considers necessary.

Schedules
A, B,
repealed

26. Schedules A and B to the said Act, as enacted by the Statutes of Ontario, 1971, chapter 50, section 71, are repealed.

Commence-
ment

27.—(1) This Act, except section 3, subsections 3 and 4 of section 6, subsection 2 of section 8 and sections 19, 21 and 26, comes into force on the day it receives Royal Assent.

Idem

(2) Section 3 comes into force on the 1st day of August, 1979.

SECTION 25. Self-explanatory.

SECTION 26. Schedules A and B set out conditions deemed to be part of contracts for transportation of goods for compensation. These are being removed.

- (3) Subsections 3 and 4 of section 6, subsection 2 of section ^{Idem} 8 and sections 19, 21 and 26 come into force on a day to be named by proclamation of the Lieutenant Governor.

28. The short title of this Act is *The Public Commercial Vehicles* ^{Short title}
Amendment Act, 1979.

An Act to amend
The Public Commercial Vehicles Act

1st Reading

May 15th, 1979

2nd Reading

3rd Reading

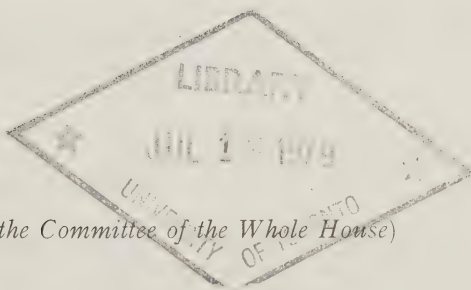
THE HON. J. W. SNOW
Minister of Transportation and
Communications

(Government Bill)

3RD SESSION, 31ST LEGISLATURE, ONTARIO
28 ELIZABETH II, 1979

**An Act to amend
The Public Commercial Vehicles Act**

THE HON. J. W. SNOW
Minister of Transportation and Communications



(Reprinted as amended by the Committee of the Whole House)

EXPLANATORY NOTES

SECTION 1. The interpretation section is being amended with the main changes being as follows:

1. A definition of commercial motor vehicle is added to permit a distinction between the power driven segment of a truck and the trailer segment.
2. The change in the definition of a public commercial vehicle is complementary to section 13 of the Bill.
3. A definition of licence plate is added.
4. The concept of commercial cartage zones is introduced.
5. Changes are made into metric measurements.

An Act to amend The Public Commercial Vehicles Act


HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Clause *ab* of section 1 of *The Public Commercial Vehicles Act*, being chapter 375 of the Revised Statutes of Ontario, 1970, as enacted by the Statutes of Ontario, 1973, chapter 166, section 1, is repealed and the following substituted therefor:

(*ab*) “commercial cartage zone” means an area designated as a commercial cartage zone by the regulations;

(*ac*) “commercial motor vehicle” means a commercial motor vehicle as defined in *The Highway Traffic Act*; s. 1 (*ab*),
re-enacted
R.S.O. 1970,
c. 202

 (*ad*) “commercial vehicle” means,

- (i) a commercial motor vehicle or a combination of a commercial motor vehicle and trailers as defined in *The Highway Traffic Act*,
- (ii) a dual-purpose vehicle or a combination of a dual-purpose vehicle and a trailer as defined in *The Highway Traffic Act*,
- (iii) any other motor vehicle as defined in *The Highway Traffic Act* while drawing a trailer as defined in that Act, the combination of the motor vehicle and trailer constituting the commercial vehicle. 

- (2) The said section 1, as amended by the Statutes of Ontario, 1971, chapter 50, section 71 and 1973, chapter 166, section 1, is further amended by adding thereto the following clause: s. 1,
amended

(ga) "licence plate" means the licence plate issued under this Act in conjunction with a vehicle licence.

s. 1 (k),
re-enacted

- (3) Clause *k* of the said section 1, as re-enacted by the Statutes of Ontario, 1973, chapter 166, section 1, is repealed and the following substituted therefor:

(k) "public commercial vehicle" means a commercial motor vehicle as defined in *The Highway Traffic Act* or a dual-purpose vehicle or the combination of a commercial motor vehicle and trailer or trailers drawn by it, operated by the holder of an operating licence.

s. 1 (m),
amended

- (4) Clause *m* of the said section 1 is amended by striking out "500 gallons" in the seventh line and inserting in lieu thereof "2.3 kilolitres".

s. 1 (p),
amended

- (5) Clause *p* of the said section 1 is amended by striking out "three miles" in the third line and inserting in lieu thereof "five kilometres".

s. 2 (1) (b),
re-enacted

- 2.—(1) Clause *b* of subsection 1 of section 2 of the said Act, as re-enacted by the Statutes of Ontario, 1973, chapter 166, section 2, is repealed and the following substituted therefor:

(b) the commercial vehicle bears a licence plate issued to the operator; and

s. 2 (2),
re-enacted

- (2) Subsection 2 of section 2 of the said Act, as re-enacted by the Statutes of Ontario, 1973, chapter 166, section 2, is repealed and the following substituted therefor:

Exceptions

- (2) Subsection 1 does not apply to prohibit the transportation of,

(a) goods within a commercial cartage zone or an urban zone;

(b) fresh fruit or fresh vegetables grown in continental United States of America;

(c) farm or forest produce, other than live stock or milk, that are the produce of the farm or forest from which they are being transported;

(d) ready mixed concrete; or

SECTION 2.—Subsection 1. The change is complementary to section 13 of the Bill.

Subsection 2. Subsection 1 of section 2 of the Act prohibits the operation of a commercial vehicle for compensation without proper licences.

Subsection 2 of section 2 of the Act provides exceptions to the prohibition found in subsection 1 of section 2 of the Act. The list of goods that may be carried without licence is expanded.

Subsection 3. The new subsection 3 of section 2 of the Act provides a penalty different from the general penalty found in the Act where the contravention of subsection 1 of section 2 of the Act is in operating without an operating licence or in contravention of an operating licence. The fine is increased for subsequent offences by the new subsection 3a of section 2 of the Act.

SECTION 3. The provision makes it an offence for a person shipping goods to hire a transporter whom the shipper knows does not have the necessary licence.

SECTION 4. The changes are complementary to section 13 of the Bill.

SECTION 5. The new provisions permit the Minister to extend, for a period of up to seven days, the privileges in an operating licence under a special authority (see subsections 4-6 of section 5 of the Act).

Also, where there is a "North Bay Condition" in a certificate, that condition is deemed to be deleted (see subsection 7 of section 5 of the Act).

(e) domestic and municipal garbage, refuse and trash.

- (3) The said section 2, as amended by the Statutes of Ontario, 1971, chapter 50, section 71 and 1973, chapter 166, section 2, is further amended by adding thereto the following subsections:

(3) Every person to whom subsection 1 applies who operates a commercial vehicle on a highway for the transportation for compensation of goods of another person without an operating licence or in contravention of the terms and conditions of his operating licence is guilty of an offence and on summary conviction is liable, ^{Penalty}

(a) for a first offence, to a fine of not less than \$250 and not more than \$5,000; and

(b) for each subsequent offence, to a fine of not less than \$500 and not more than \$5,000.

(3a) Where a person who has previously been convicted of an offence mentioned in subsection 3 is convicted of the same or any other offence mentioned in subsection 3 within five years after the date of the previous conviction, the offence for which he is last convicted shall be deemed to be a subsequent offence for the purpose of clause b of subsection 3. ^{Subsequent offences}

3. The said Act is amended by adding thereto the following section: ^{s. 2a, enacted}

2a. Where, under the provisions of this Act, a licence is required for the transportation of goods, no person shall hire, directly or indirectly, or participate in an arrangement to hire a person to transport such goods by means of a commercial vehicle knowing that the person hired, by, for or on behalf of whom the commercial vehicle is operated, is not the holder of the required licence. ^{Hiring of unlicensed commercial vehicle}

- 4.—(1) Subsection 1 of section 4 of the said Act is amended by striking out “an owner of a public commercial vehicle” in the first and second lines and inserting in lieu thereof “a holder of an operating licence”. ^{s. 4 (1), amended}

(2) Subsection 2 of the said section 4 is amended by striking out “an owner of a public commercial vehicle” in the first and second lines and inserting in lieu thereof “a holder of an operating licence”. ^{s. 4 (2), amended}

5. Section 5 of the said Act, as re-enacted by the Statutes of Ontario, 1971, chapter 50, section 71 and amended by the ^{s. 5, amended}

Statutes of Ontario, 1975 (2nd Session), chapter 7, section 1, is further amended by adding thereto the following subsections:

Special
authority

(4) Where the Minister is of the opinion that public necessity and convenience will be served thereby, he may grant to the holder of an operating licence a special authority that augments his operating licence to the extent set forth in the special authority, subject to the terms and conditions therein, for a period not exceeding seven days.

Act, etc.,
continues
to apply

(5) The provisions of this Act, except sections 6 and 12j, and the regulations, and the terms and conditions of the licensee's operating licence shall continue to apply during the period of validity of the special authority to the extent that they are not inconsistent therewith.

Delegation
by Minister

(6) The Minister may delegate to a member or members of the Board his powers under subsection 4.

Condition
deleted

(7) Every operating licence issued by the Minister under this section, every certificate issued by the Board under section 6 and every certificate issued before the 17th day of October, 1955, by the Ontario Municipal Board under this Act that contains a condition that refers to the City of North Bay and prohibits the transportation of goods to or from any points north of North Bay is hereby amended by the deletion of the condition.

s. 6 (1, 2),
re-enacted;
s. 6 (4),
repealed

6.—(1) Subsections 1 and 2 of section 6 of the said Act, as re-enacted by the Statutes of Ontario, 1971, chapter 50, section 71 and amended by the Statutes of Ontario, 1975 (2nd Session), chapter 7, section 2, and subsection 4 of the said section, as enacted by the Statutes of Ontario, 1975 (2nd Session), chapter 7, section 2, are repealed and the following substituted therefor:

Approval
of Board

(1) The Minister shall not issue an operating licence to any person unless the Board, upon the application of that person on the form provided therefor by the Ministry, has, after a hearing of the application as required by *The Ontario Highway Transport Board Act*, approved the issue of the licence to him on the ground that public necessity and convenience warrant the issue of the licence and will be served thereby, and has issued a certificate to that effect to the Minister.

R.S.O. 1970,
c. 316

Certificate

(2) Subject to subsections 3, 10 and 13, the Board may, in a certificate issued by it under this section, having regard to the requirements of public necessity and convenience,

SECTION 6.—Subsection 1. The changes are partly housekeeping and partly for the purposes of clarification. The clarification being to the effect that the Board has authority to stipulate in its certificate the term for which a licence is issued.

Subsections 2, 3 and 4. The purposes of several subsections to section 6 of the Bill is to permit different commencement dates.

The new subsections being added to section 6 of the Act provide for the issuance of a probationary operating licence to persons who have been operating without a licence between September 30, 1974 and October 1, 1976 and are also so operating at the time the application is made.

This privilege would be available to those who apply within 120 days after these provisions come into force.

The probationary licence would be valid for one year after which time the Board would review the matter and either revoke the certificate or issue a new certificate approving a regular operating licence.

Furthermore, provision is made for issuing a licence for "corridor" transporting without the necessity of proving provincial public necessity and convenience. The term "corridor" refers to the transporting of goods through Ontario without picking up or delivering the goods in Ontario (see subsection 9 of section 6 of the Act).

Also, special provisions are made in respect of certificates issued pertaining to the transportation of lumber products (see subsection 10 of section 6 of the Act).

- (a) prescribe terms and conditions to govern the transportation of goods by public commercial vehicles pursuant to the licence;
 - (b) approve the conferring by the licence of special, exclusive or limited rights with respect to the operation of public commercial vehicles and with respect to any highway or highways or portions thereof described in the certificate; and
 - (c) prescribe that a licence expire at the end of a specified term, upon a specified day or upon the occurrence of a specified event.
- (2) The said section 6, as amended by the Statutes of Ontario, ^{s. 6, amended} 1975 (2nd Session), chapter 7, section 2 and 1976, chapter 22, section 1, is further amended by adding thereto the following subsection:
- (9) Where the application referred to in subsection 1 is for an operating licence for only the transportation of goods through the Province of Ontario, public necessity and convenience shall be deemed to have been established for the purposes of that subsection upon the applicant filing with the Board evidence satisfactory to the Board that the applicant holds appropriate operating licences issued by the provinces where the transportation by the applicant will originate and terminate. ^{Meaning of public necessity and convenience for purposes of subs. 1}
- (3) The said section 6 is further amended by adding thereto ^{s. 6, amended} the following subsection:
- (10) The Board shall, in a certificate issued by it under this section pertaining to the transportation of logs, timber, rough or dressed lumber, laminated lumber, laminated wood blocks, wooden ties and poles, plywood, particle board, waferboard, fibreboard, veneer, bark, woodchips, shavings, sawdust and wood flour, having regard to the requirements of public necessity and convenience, ^{Lumber products}
- (a) approve the conferring by the licence of rights with respect to the operation of public commercial vehicles in terms of,
 - (i) transportation commencing within a region or regions as prescribed by the regulations and not otherwise geographically, and
 - (ii) the maximum number of vehicles which may be operated; and

- (b) not limit the rights conferred by the licence to the operation of public commercial vehicles to the transportation of materials of specific consignors or consignees.

s. 6,
amended

- (4) The said section 6 is further amended by adding thereto the following subsections:

Applicants
who operated
between
September 30,
1974 and
October 1,
1976

- (11) An application for a probationary operating licence or licences may be made to the Board by a person who has not been the holder of an operating licence at any time between the 30th day of September, 1974 and the 1st day of October, 1976.

Evidence in
support of
application

- (12) In support of an application made under subsection 11, the person making the application shall submit to the Board evidence showing,

- (a) that, from the 1st day of October, 1974 to the 30th day of September, 1976, the applicant operated on a continuing basis one or more commercial vehicles transporting goods for compensation where the operation was not restricted to urban zones;
- (b) the number of commercial vehicles operated by the applicant;
- (c) a description of goods carried and names of the consignors of the goods;
- (d) the points of origin and destination of the goods described under clause *c*;
- (e) that persons named in clause *c* support the application;
- (f) that the applicant is financially capable of continuing to provide such transportation services in accordance with this Act and the regulations and of meeting his financial responsibilities to the persons mentioned in clause *e*; and
- (g) that the applicant was on the date of the application carrying on the business of transporting for compensation goods of another person where the operation was not restricted to urban zones.

Issuance of
certificate

- (13) The Board, upon hearing an application made under subsection 11 and being satisfied with regard only to the

evidence submitted under subsection 12, shall issue a certificate or certificates consistent with such evidence approving the issue of a probationary licence or licences, which certificate or certificates shall state the maximum number of commercial vehicles that may be operated.

(14) Notwithstanding subsection 1 and subject to subsection 17, where the Board has issued a certificate or certificates under subsection 13, the Minister shall issue a probationary licence or licences in accordance with the certificate or certificates containing such terms and conditions as set out in the certificate or certificates.

Issuance of
licence

(15) An application under subsection 11 shall be made not later than 120 days after that subsection comes into force.

Time
limit for
application
under subs. 11

(16) An applicant under subsection 11 shall file with his application a tariff of tolls showing all the rates and charges for the transportation of goods in respect of which the transportation is proposed to be provided or offered by the applicant.

Applicant
to file
tariff

(17) Before a licence is issued by the Minister pursuant to a certificate issued by the Board under subsection 13, the applicant shall file with the Ministry, for each motor vehicle that he proposes to operate under the licence, a safety standards certificate issued under *The Highway Traffic Act* not more than thirty days before the date of filing.

Requirements
prior to
issue of
licence

R.S.O. 1970,
c. 202

(18) A probationary operating licence issued under subsection 14 expires,

Validity of
probationary
operating
licence

(a) upon the Board revoking its certificate under subsection 19; or

(b) where the Board issues a new certificate under subsection 19,

(i) upon the Minister issuing an operating licence under subsection 1 pursuant to the certificate, or

(ii) upon the expiration of three months after the issuance of the new certificate,

whichever first occurs.

(19) The Board shall, not less than one year after the date of issue of a probationary operating licence issued

Review by
Board

R.S.O. 1970,
c. 316

under subsection 14 and as soon after the expiration of the one year as is convenient to the Board, review under section 19 of *The Ontario Highway Transport Board Act* the certificate with respect to the licence and shall revoke the certificate or issue a new certificate approving the issue of an operating licence.

s. 6a,
enacted

7. The said Act is further amended by adding thereto the following section:

Where
certificate
revoked or
amended

6a. Where a certificate issued by the Board under section 6 is revoked or amended, the operating licence issued as a result of that certificate shall be revoked or amended accordingly, and the revocation or amendment of the licence shall be effective on the fifth day after the day notice of the revocation or amendment is mailed by registered mail addressed to the licensee at his last known address.

s. 7 (1),
amended

- 8.—(1) Subsection 1 of section 7 of the said Act, as re-enacted by the Statutes of Ontario, 1971, chapter 50, section 71, is amended by striking out "in the prescribed form" in the third line and inserting in lieu thereof "on the form provided therefor by the Ministry".

s. 7,
amended

- (2) The said section 7 is amended by adding thereto the following subsection:

Probationary
licence not
transferable

(1a) No probationary operating licence issued pursuant to an application under subsection 11 of section 6 is transferable.

s. 7 (2),
amended

- (3) Subsection 2 of the said section 7 is amended by inserting after "hearing" in the third line "as required by *The Ontario Highway Transport Board Act*".

s. 9 (1),
re-enacted

- 9.—(1) Subsection 1 of section 9 of the said Act, as re-enacted by the Statutes of Ontario, 1971, chapter 50, section 71, is repealed and the following substituted therefor:

Expiry of
licence

(1) An operating licence for which a day for expiry has not been fixed expires on the 1st day of July in each year or on the expiry of all vehicle licences issued pursuant to the operating licence unless before such date or such expiry, as the case may be, the holder of the operating licence has applied for and acquired one or more vehicle licences for the period immediately following such date or such expiry, as the case may be.

s. 9,
amended

- (2) The said section 9 is amended by adding thereto the following subsection:

SECTION 7. The provision added clarifies that an operating licence is dependent on a certificate issued by the Board.

SECTION 8.—Subsections 1 and 3. Housekeeping amendments.

Subsection 2. Subsection 1 of section 7 of the Act provides that an operating licence shall not be transferred without the approval of the Minister. The new subsection 1*a* of section 7 of the Act provides that an operating licence issued pursuant to an application under the new subsection 11 of section 6 of the Act cannot be transferred.

SECTION 9. The recasting of subsection 1 of section 9 of the Act is complementary to section 13 of the Bill.

The new subsection 3 of section 9 of the Act is complementary to the new clause *c* of subsection 2 of section 6 of the Act which clarifies that a licence may be issued for a specific term. Where there is a specific expiry time in the licence then the July 1st expiry date set out in the Act does not apply.

SECTION 10.—Subsection 1. Section 10 of the Act empowers the Minister to suspend or cancel an operating licence for any of the causes set out in that section. The amendment adds a further cause for suspending or cancelling an operating licence.

Subsection 2. The added clause has the effect of permitting the Minister to cancel an operating licence for corridor transportation where the holder of the licence ceases to hold the necessary licences outside Ontario.

SECTION 11. The concept of a commercial cartage zone is introduced. The Act will not apply to transportation of goods within a commercial cartage zone.

(3) Subsections 1 and 2 do not apply to an operating licence that by its terms expires at the end of a specified term, upon a specified day or upon the occurrence of a specified event. Where subss. 1 and 2 do not apply

10.—(1) Section 10 of the said Act, as re-enacted by the Statutes of Ontario, 1971, chapter 50, section 71, is amended by adding thereto the following clause: s. 10, amended

(ba) where the past conduct of the applicant or licensee or, where the applicant or licensee is a corporation, of its officers or directors affords reasonable grounds for belief that the transportation service will not be operated in accordance with the law and with honesty and integrity.

(2) The said section 10 is further amended by striking out “or” at the end of clause *c*, by adding “or” at the end of clause *d* and by adding thereto the following clause: s. 10, amended

(e) where the licence was issued under subsection 1 of section 6, as a result of the application of subsection 9 of section 6, and the licensee ceases to hold any appropriate operating licence referred to in subsection 9 of section 6.

11. The said Act is further amended by adding thereto the following section: s. 11, enacted

11.—(1) A commercial cartage zone may be designated by the Minister from time to time in accordance with the recommendations of the Board. Designation of commercial cartage zones

(2) Where the Minister proposes to designate a commercial cartage zone or to vary the boundaries of a commercial cartage zone, he shall refer the proposal to the Board and the Board shall hold a public hearing and report thereon to the Minister with its recommendations. Referral to Board

(3) The Minister may, following receipt of the report and recommendations of the Board, under subsection 2, require the Board to hold a new public hearing of the whole or any part of the proposal and to report thereon to the Minister with its recommendations. Idem

(4) A commercial cartage zone shall not exceed one regional municipality, county or district. Limitation

(5) In determining whether to recommend the designation of a commercial cartage zone, the Board shall consider Matters for Board to consider

whether public necessity and convenience will be served thereby by taking into account the impact thereof on the users of for hire transportation services within the area under consideration and on the providers of such services and, in considering the impact on the providers of such services, the Board will take into account the impact on those operating exclusively within areas of the proposed zone to which this Act does not apply and those holding operating licences under this Act who would be affected thereby.

s. 12 (1),
re-enacted

- 12.**—(1) Subsection 1 of section 12 of the said Act, as re-enacted by the Statutes of Ontario, 1971, chapter 50, section 71, and amended by the Statutes of Ontario, 1973, chapter 166, section 5, is repealed and the following substituted therefor:

Issue of
vehicle
licence

(1) Subject to section 12*c*, the holder of an operating licence is entitled, upon application to the Minister on the form provided therefor by the Ministry and payment of the prescribed fee, to be issued vehicle licences by the Minister.

s. 12 (2),
re-enacted

- (2) Subsection 2 of the said section 12, as amended by the Statutes of Ontario, 1973, chapter 166, section 5, is repealed and the following substituted therefor:

Limit
on vehicle
licences

(2) Notwithstanding subsection 1, the holder of an operating licence is not entitled to be issued or to hold more vehicle licences than he has commercial vehicles registered in his name or leased in accordance with this Act and the regulations.

s. 12*a*,
re-enacted

- 13.** Section 12*a* of the said Act, as enacted by the Statutes of Ontario, 1971, chapter 50, section 71, is repealed and the following substituted therefor:

Vehicle
licence

12*a*.—(1) A vehicle licence authorizes the holder to operate a vehicle on which a licence plate is displayed as a public commercial vehicle providing the transportation designated in his operating licence.

Expiry of
vehicle
licence

(2) A vehicle licence expires at the end of the last day of the period for which the licence was issued.

Display of
licence
plate

(3) Subject to subsection 4, a licence plate shall not be displayed on a commercial motor vehicle unless the vehicle licence was issued for that vehicle.

Where
subs. 3 does
not apply

- (4) Subsection 3 does not apply if,

(a) the holder of the vehicle licence is within a class of licensees prescribed for the purposes of this subsection;

SECTION 12. The amendments are partly housekeeping and partly complementary to section 13 of the Bill.

SECTION 13. At present, vehicle licences are issued only for specific commercial vehicles. The proposed changes to the Act permit the concept of a "floating" vehicle licence. This means the issuing of a vehicle licence that is not tied to a specific commercial vehicle.

Such classes of licences or vehicles as are prescribed by the regulations may operate or be operated under floating vehicle licences.

SECTION 14. The amended subsection 2 of section 12*b* of the Act serves to clarify the wording and is complementary to section 13 of the Bill.

The new subsection 3 of section 12*b* of the Act establishes the person who is the operator of a vehicle and the new subsection 4 of section 12*b* of the Act provides that the operator shall employ only vehicles that he owns or leases.

SECTIONS 15 AND 16. The amendments are complementary to section 13 of the Bill.

- (b) the commercial motor vehicle is within a class of motor vehicles prescribed for the purposes of this subsection; or
- (c) the operating licence under the authority of which the vehicle licence was issued is within a class prescribed for the purposes of this subsection.

(5) For the purposes of subsection 4, the Lieutenant Governor in Council may make regulations prescribing,

- (a) classes of holders of operating licences;
- (b) classes of commercial motor vehicles;
- (c) classes of operating licences.

14. Subsection 2 of section 12*b* of the said Act, as enacted by the Statutes of Ontario, 1971, chapter 50, section 71, is repealed and the following substituted therefor:

(2) No person shall operate a public commercial vehicle on a highway unless there is attached thereto, and exposed in a conspicuous position, a licence plate issued by the Minister to the operator of that vehicle showing the number of the vehicle licence issued for the current year.

(3) Where a licence plate is exposed on a commercial vehicle, the holder of the operating licence under the authority of which that licence plate and corresponding vehicle licence was issued shall be deemed to be the operator of that vehicle for the purposes of this Act unless the licence plate was exposed thereon without his consent, the burden of proof of which shall be on the licensee.

(4) The holder of an operating licence shall not operate a public commercial vehicle unless he is the registered owner of the vehicle under *The Highway Traffic Act* or he has entered into an agreement for a lease of the vehicle in accordance with this Act and the regulations.

15. Section 12*c* of the said Act, as enacted by the Statutes of Ontario, 1971, chapter 50, section 71, is repealed and the following substituted therefor:

12*c*. Subject to section 12*i*, the Minister may refuse to issue or may cancel a vehicle licence if the applicant or licensee is not, or ceases to be, the holder of an operating licence or ceases to comply with subsection 2 of section 12.

s. 12*f*,
amended

- 16.** Section 12*f* of the said Act, as re-enacted by the Statutes of Ontario, 1973, chapter 166, section 7, is amended by striking out "in the prescribed form" in the third line and inserting in lieu thereof "on the form provided therefor by the Ministry".

s. 12*k*,
re-enacted

- 17.** Section 12*k* of the said Act, as enacted by the Statutes of Ontario, 1971, chapter 50, section 71, is repealed and the following substituted therefor:

Form and
publication
of tariff

- 12*k*.** A tariff of tolls shall be filed in a form satisfactory to the Board and published and maintained available to the public.

s. 12*m*,
repealed

- 18.** Section 12*m* of the said Act, as enacted by the Statutes of Ontario, 1971, chapter 50, section 71, is repealed.

s. 12*n* (2-6),
re-enacted

- 19.** Subsections 2 to 6 of section 12*n* of the said Act, as enacted by the Statutes of Ontario, 1971, chapter 50, section 71, are repealed and the following substituted therefor:

Contents

(2) A bill of lading shall contain such information as may be prescribed by regulation together with an acknowledgment of receipt by the carrier or the freight forwarder of the goods therein described indicating whether the goods were received in apparent good order and condition and an undertaking to carry the goods for delivery to the consignee or the person entitled to receive the goods and shall be signed in full by, or on behalf of, the issuing carrier or issuing freight forwarder and by the consignor as accepting the terms and conditions contained, or deemed to be contained, therein.

Signed
copy to be
retained

(3) A signed copy of the bill of lading shall be retained by the consignor and by the carrier.

Copy of
bill of
lading to
be carried
by driver

(4) Every driver operating a public commercial vehicle shall carry on each trip a copy of the bill of lading and shall produce it when required for inspection by a member of the Ontario Provincial Police Force or an officer of the Ministry.

Idem

(5) Where a carrier is transporting goods on behalf of a freight forwarder, the driver transporting the goods by public commercial vehicle shall carry on each trip a copy of the bill of lading issued by the freight forwarder and shall produce it when required for inspection by a member of the Ontario Provincial Police Force or an officer of the Ministry.

Carrier's
waybill
carried in
lieu of
bill of
lading

(6) Notwithstanding subsections 4 and 5, a carrier's waybill, containing such information as may be prescribed by regulation, may be carried by any driver operating a public commercial vehicle or transporting goods on behalf of a

SECTION 17. This is a housekeeping amendment.

SECTION 18. The section repealed deals with the expiry of filed tariff tolls.

SECTION 19. The reference to Schedules A and B is being deleted. This is complementary to section 26 of the Bill.

Added to the matters which are to be part of a bill of lading is a statement by the carrier or freight forwarder as to the state of the goods when he received them.

Where a driver or carrier is required to produce a copy of a bill of lading, a memorandum of the bill will no longer suffice, but a "carrier's waybill" may be produced instead.

Where a shipment is carried by more than one vehicle, the carrier must ensure that a bill of lading or a waybill is in each vehicle.

SECTION 20. The amendment is a change of wording complementary to section 13 of the Bill.

SECTION 21. The amendment is complementary to section 19 of the Bill.

SECTION 22. Subsection 1 of section 15c of the Act now gives an officer of the Ministry authority to examine business records and documents of a holder of an operating licence in respect of a public commercial vehicle business. The amendment extends this authority to include the holder of a freight forwarder's licence.

SECTION 23. The minimum and maximum general penalties are increased from \$50 and \$1,000, respectively, to \$150 and \$1,500.

SECTION 24. Section 18 of the Act refers to the authority to make regulations. The clauses added expand the matters that may be dealt with by regulation. The amended clause *a* incorporates a change of a house-keeping nature.

freight forwarder and may be produced in lieu of a bill of lading when such is required for inspection by a member of the Ontario Provincial Police Force or an officer of the Ministry.

(7) Where any shipment of goods is carried on more than one vehicle, the carrier shall ensure that every part of the shipment is accompanied by a copy of the bill of lading or by a waybill mentioned in subsection 6. Carrier's responsibility

- 20.** Section 15a of the said Act, as enacted by the Statutes of Ontario, 1971, chapter 50, section 71, is repealed and the following substituted therefor: s. 15a, re-enacted

15a. Every driver of a public commercial vehicle on a highway shall carry or keep in a readily accessible place in the vehicle, the vehicle licence corresponding to the licence plate exposed on the vehicle together with a copy of the conditions set out in the operating licence under which the vehicle is being operated, which documents shall be produced upon the demand of a member of the Ontario Provincial Police Force or an officer of the Ministry. Vehicle licence, etc., to be carried by driver

- 21.** Clause *d* of subsection 3 of section 15b of the said Act, as re-enacted by the Statutes of Ontario, 1973, chapter 166, section 10, is repealed and the following substituted therefor: s. 15b (3) (d), re-enacted

(d) copies of any bills of lading or waybills,

.

- 22.** Subsection 1 of section 15c of the said Act, as enacted by the Statutes of Ontario, 1971, chapter 50, section 71, is amended by inserting after "vehicles" in the fourth line "or of the holder of a freight forwarder's licence relating to his business as a freight forwarder". s. 15c (1), amended

- 23.** Section 16 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 166, section 12, is repealed and the following substituted therefor: s. 16, re-enacted

16. Every person who contravenes any of the provisions of this Act or the regulations is guilty of an offence and on summary conviction, where a penalty for the contravention is not otherwise provided for herein, is liable to a fine of not less than \$150 and not more than \$1,500. Penalty

- 24.—**(1) Clause *a* of section 18 of the said Act, as re-enacted by the Statutes of Ontario, 1971, chapter 50, section 71, is repealed and the following substituted therefor: s. 18 (a), re-enacted

(a) prescribing classes of licences and the forms of licences.

s. 18,
amended

(2) the said section 18, as amended by the Statutes of Ontario, 1971, chapter 50, section 71, 1973, chapter 166, section 13 and 1975 (2nd Session), chapter 7, section 3, is further amended by adding thereto the following clauses:

(j) prescribing the form and contents of a waybill;

(t) governing the issue and renewal of operating licences and classes of operating licences;

(u) prescribing the qualifications of applicants for and holders of operating licences or any class or classes of operating licences;

(v) exempting holders of any class or classes of operating licences from any of the provisions of section 12j or 12n;

(w) prescribing terms which shall be incorporated into all leases referred to in subsection 4 of section 12b;

(x) prescribing procedures for the filing and obtaining of approval of leases for the purposes of subsection 4 of section 12b.

ss. 19, 20,
enacted

25. The said Act is further amended by adding thereto the following sections:

Policy
statements

19.—(1) The Lieutenant Governor in Council may by order from time to time issue policy statements setting out matters to be considered by the Board when determining questions of public necessity and convenience and the Board shall take such matters into consideration together with such other matters as the Board considers appropriate where the hearing or review is commenced after the policy statement is gazetted.

Publication

(2) An order made under subsection 1 shall be published in *The Ontario Gazette*.

Investigation
directed by
Minister

20.—(1) The Minister may direct the Board to examine and investigate such matters relating to transportation

SECTION 25. Self-explanatory.

SECTION 26. Schedules A and B set out conditions deemed to be part of contracts for transportation of goods for compensation. These are being removed.

policy as are referred to it by the Minister and the Board shall report thereon to the Minister.

(2) For the purposes of subsection 1, the Board may hold ^{Hearings by Board} such hearings as it considers necessary.

26. Schedules A and B to the said Act, as enacted by the Statutes of Ontario, 1971, chapter 50, section 71, are repealed. ^{Schedules A, B, repealed}

27.—(1) This Act, except section 3, subsections 2, 3 and 4 of section 6, subsection 2 of section 8, subsection 2 of section 10 and sections 19, 21 and 26, comes into force on the day it receives Royal Assent. ^{Commence-ment}

(2) Section 3 comes into force on the 1st day of August, 1979. ^{Idem}

(3) Subsections 2, 3 and 4 of section 6, subsection 2 of section 8, subsection 2 of section 10, and sections 19, 21 and 26 come into force on a day to be named by proclamation of the Lieutenant Governor. ^{Idem}

28. The short title of this Act is *The Public Commercial Vehicles Amendment Act, 1979*. ^{Short title}

An Act to amend
The Public Commercial Vehicles Act

1st Reading

May 15th, 1979

2nd Reading

June 18th, 1979

3rd Reading

THE HON. J. W. SNOW
Minister of Transportation and
Communications

*(Reprinted as amended by the
Committee of the Whole House)*

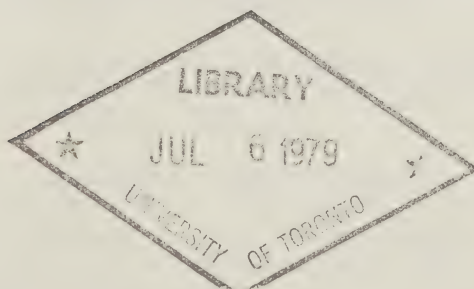
BILL 89

3RD SESSION, 31ST LEGISLATURE, ONTARIO
28 ELIZABETH II, 1979

Legislative Assembly

**An Act to amend
The Public Commercial Vehicles Act**

THE HON. J. W. SNOW
Minister of Transportation and Communications



TORONTO

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An Act to amend The Public Commercial Vehicles Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Clause *ab* of section 1 of *The Public Commercial Vehicles Act*, being chapter 375 of the Revised Statutes of Ontario, 1970, as enacted by the Statutes of Ontario, 1973, chapter 166, section 1, is repealed and the following substituted therefor: s. 1 (*ab*),
re-enacted
- (*ab*) “commercial cartage zone” means an area designated as a commercial cartage zone by the regulations;
- (*ac*) “commercial motor vehicle” means a commercial motor vehicle as defined in *The Highway Traffic Act*; R.S.O. 1970,
c. 202
- (*ad*) “commercial vehicle” means,
- (i) a commercial motor vehicle or a combination of a commercial motor vehicle and trailers as defined in *The Highway Traffic Act*,
 - (ii) a dual-purpose vehicle or a combination of a dual-purpose vehicle and a trailer as defined in *The Highway Traffic Act*,
 - (iii) any other motor vehicle as defined in *The Highway Traffic Act* while drawing a trailer as defined in that Act, the combination of the motor vehicle and trailer constituting the commercial vehicle.
- (2) The said section 1, as amended by the Statutes of Ontario, 1971, chapter 50, section 71 and 1973, chapter 166, section 1, is further amended by adding thereto the following clause: s. 1,
amended

(ga) "licence plate" means the licence plate issued under this Act in conjunction with a vehicle licence.

s. 1 (k),
re-enacted

- (3) Clause *k* of the said section 1, as re-enacted by the Statutes of Ontario, 1973, chapter 166, section 1, is repealed and the following substituted therefor:

(k) "public commercial vehicle" means a commercial motor vehicle as defined in *The Highway Traffic Act* or a dual-purpose vehicle or the combination of a commercial motor vehicle and trailer or trailers drawn by it, operated by the holder of an operating licence.

s. 1 (m),
amended

- (4) Clause *m* of the said section 1 is amended by striking out "500 gallons" in the seventh line and inserting in lieu thereof "2.3 kilolitres".

s. 1 (p),
amended

- (5) Clause *p* of the said section 1 is amended by striking out "three miles" in the third line and inserting in lieu thereof "five kilometres".

s. 2 (1) (b),
re-enacted

- 2.—(1) Clause *b* of subsection 1 of section 2 of the said Act, as re-enacted by the Statutes of Ontario, 1973, chapter 166, section 2, is repealed and the following substituted therefor:

(b) the commercial vehicle bears a licence plate issued to the operator; and

s. 2 (2),
re-enacted

- (2) Subsection 2 of section 2 of the said Act, as re-enacted by the Statutes of Ontario, 1973, chapter 166, section 2, is repealed and the following substituted therefor:

Exceptions

- (2) Subsection 1 does not apply to prohibit the transportation of,

(a) goods within a commercial cartage zone or an urban zone;

(b) fresh fruit or fresh vegetables grown in continental United States of America;

(c) farm or forest produce, other than live stock or milk, that are the produce of the farm or forest from which they are being transported;

(d) ready mixed concrete; or

(e) domestic and municipal garbage, refuse and trash.

- (3) The said section 2, as amended by the Statutes of Ontario, ^{s. 2, amended} 1971, chapter 50, section 71 and 1973, chapter 166, section 2, is further amended by adding thereto the following subsections:

(3) Every person to whom subsection 1 applies who ^{Penalty} operates a commercial vehicle on a highway for the transportation for compensation of goods of another person without an operating licence or in contravention of the terms and conditions of his operating licence is guilty of an offence and on summary conviction is liable,

(a) for a first offence, to a fine of not less than \$250 and not more than \$5,000; and

(b) for each subsequent offence, to a fine of not less than \$500 and not more than \$5,000.

(3a) Where a person who has previously been convicted ^{Subsequent offences} of an offence mentioned in subsection 3 is convicted of the same or any other offence mentioned in subsection 3 within five years after the date of the previous conviction, the offence for which he is last convicted shall be deemed to be a subsequent offence for the purpose of clause *b* of subsection 3.

3. The said Act is amended by adding thereto the following ^{s. 2a, enacted} section:

2a. Where, under the provisions of this Act, a licence is ^{Hiring of unlicensed commercial vehicle} required for the transportation of goods, no person shall hire, directly or indirectly, or participate in an arrangement to hire a person to transport such goods by means of a commercial vehicle knowing that the person hired, by, for or on behalf of whom the commercial vehicle is operated, is not the holder of the required licence.

- 4.—(1) Subsection 1 of section 4 of the said Act is amended by ^{s. 4 (1), amended} striking out “an owner of a public commercial vehicle” in the first and second lines and inserting in lieu thereof “a holder of an operating licence”.

(2) Subsection 2 of the said section 4 is amended by striking ^{s. 4 (2), amended} out “an owner of a public commercial vehicle” in the first and second lines and inserting in lieu thereof “a holder of an operating licence”.

5. Section 5 of the said Act, as re-enacted by the Statutes of ^{s. 5, amended} Ontario, 1971, chapter 50, section 71 and amended by the

Statutes of Ontario, 1975 (2nd Session), chapter 7, section 1, is further amended by adding thereto the following subsections:

Special
authority

(4) Where the Minister is of the opinion that public necessity and convenience will be served thereby, he may grant to the holder of an operating licence a special authority that augments his operating licence to the extent set forth in the special authority, subject to the terms and conditions therein, for a period not exceeding seven days.

Act, etc.,
continues
to apply

(5) The provisions of this Act, except sections 6 and 12j, and the regulations, and the terms and conditions of the licensee's operating licence shall continue to apply during the period of validity of the special authority to the extent that they are not inconsistent therewith.

Delegation
by Minister

(6) The Minister may delegate to a member or members of the Board his powers under subsection 4.

Condition
deleted

(7) Every operating licence issued by the Minister under this section, every certificate issued by the Board under section 6 and every certificate issued before the 17th day of October, 1955, by the Ontario Municipal Board under this Act that contains a condition that refers to the City of North Bay and prohibits the transportation of goods to or from any points north of North Bay is hereby amended by the deletion of the condition.

s. 6 (1, 2),
re-enacted;
s. 6 (4),
repealed

6.—(1) Subsections 1 and 2 of section 6 of the said Act, as re-enacted by the Statutes of Ontario, 1971, chapter 50, section 71 and amended by the Statutes of Ontario, 1975 (2nd Session), chapter 7, section 2, and subsection 4 of the said section, as enacted by the Statutes of Ontario, 1975 (2nd Session), chapter 7, section 2, are repealed and the following substituted therefor:

Approval
of Board

R.S.O. 1970,
c. 316

(1) The Minister shall not issue an operating licence to any person unless the Board, upon the application of that person on the form provided therefor by the Ministry, has, after a hearing of the application as required by *The Ontario Highway Transport Board Act*, approved the issue of the licence to him on the ground that public necessity and convenience warrant the issue of the licence and will be served thereby, and has issued a certificate to that effect to the Minister.

Certificate

(2) Subject to subsections 3, 10 and 13, the Board may, in a certificate issued by it under this section, having regard to the requirements of public necessity and convenience,

- (a) prescribe terms and conditions to govern the transportation of goods by public commercial vehicles pursuant to the licence;
 - (b) approve the conferring by the licence of special, exclusive or limited rights with respect to the operation of public commercial vehicles and with respect to any highway or highways or portions thereof described in the certificate; and
 - (c) prescribe that a licence expire at the end of a specified term, upon a specified day or upon the occurrence of a specified event.
- (2) The said section 6, as amended by the Statutes of Ontario, 1975 (2nd Session), chapter 7, section 2 and 1976, chapter 22, section 1, is further amended by adding thereto the following subsection:
- (9) Where the application referred to in subsection 1 is for an operating licence for only the transportation of goods through the Province of Ontario, public necessity and convenience shall be deemed to have been established for the purposes of that subsection upon the applicant filing with the Board evidence satisfactory to the Board that the applicant holds appropriate operating licences issued by the provinces where the transportation by the applicant will originate and terminate.
- (3) The said section 6 is further amended by adding thereto the following subsection:
- (10) The Board shall, in a certificate issued by it under this section pertaining to the transportation of logs, timber, rough or dressed lumber, laminated lumber, laminated wood blocks, wooden ties and poles, plywood, particle board, waferboard, fibreboard, veneer, bark, woodchips, shavings, sawdust and wood flour, having regard to the requirements of public necessity and convenience,
- (a) approve the conferring by the licence of rights with respect to the operation of public commercial vehicles in terms of,
 - (i) transportation commencing within a region or regions as prescribed by the regulations and not otherwise geographically, and
 - (ii) the maximum number of vehicles which may be operated; and

s. 6,
amended

Meaning
of public
necessity
and
convenience
for purposes
of subs. 1

s. 6,
amended

Lumber
products

- (b) not limit the rights conferred by the licence to the operation of public commercial vehicles to the transportation of materials of specific consignors or consignees.

s. 6,
amended

- (4) The said section 6 is further amended by adding thereto the following subsections:

Applicants
who operated
between
September 30,
1974 and
October 1,
1976

- (11) An application for a probationary operating licence or licences may be made to the Board by a person who has not been the holder of an operating licence at any time between the 30th day of September, 1974 and the 1st day of October, 1976.

Evidence in
support of
application

- (12) In support of an application made under subsection 11, the person making the application shall submit to the Board evidence showing,

- (a) that, from the 1st day of October, 1974 to the 30th day of September, 1976, the applicant operated on a continuing basis one or more commercial vehicles transporting goods for compensation where the operation was not restricted to urban zones;
- (b) the number of commercial vehicles operated by the applicant;
- (c) a description of goods carried and names of the consignors of the goods;
- (d) the points of origin and destination of the goods described under clause *c*;
- (e) that persons named in clause *c* support the application;
- (f) that the applicant is financially capable of continuing to provide such transportation services in accordance with this Act and the regulations and of meeting his financial responsibilities to the persons mentioned in clause *e*; and
- (g) that the applicant was on the date of the application carrying on the business of transporting for compensation goods of another person where the operation was not restricted to urban zones.

Issuance of
certificate

- (13) The Board, upon hearing an application made under subsection 11 and being satisfied with regard only to the

evidence submitted under subsection 12, shall issue a certificate or certificates consistent with such evidence approving the issue of a probationary licence or licences, which certificate or certificates shall state the maximum number of commercial vehicles that may be operated.

(14) Notwithstanding subsection 1 and subject to subsection 17, where the Board has issued a certificate or certificates under subsection 13, the Minister shall issue a probationary licence or licences in accordance with the certificate or certificates containing such terms and conditions as set out in the certificate or certificates.

Issuance of
licence

(15) An application under subsection 11 shall be made not later than 120 days after that subsection comes into force.

Time
limit for
application
under subs. 11

(16) An applicant under subsection 11 shall file with his application a tariff of tolls showing all the rates and charges for the transportation of goods in respect of which the transportation is proposed to be provided or offered by the applicant.

Applicant
to file
tariff

(17) Before a licence is issued by the Minister pursuant to a certificate issued by the Board under subsection 13, the applicant shall file with the Ministry, for each motor vehicle that he proposes to operate under the licence, a safety standards certificate issued under *The Highway Traffic Act* not more than thirty days before the date of filing.

Requirements
prior to
issue of
licence

R.S.O. 1970,
c. 202

(18) A probationary operating licence issued under subsection 14 expires,

Validity of
probationary
operating
licence

(a) upon the Board revoking its certificate under subsection 19; or

(b) where the Board issues a new certificate under subsection 19,

(i) upon the Minister issuing an operating licence under subsection 1 pursuant to the certificate, or

(ii) upon the expiration of three months after the issuance of the new certificate,

whichever first occurs.

(19) The Board shall, not less than one year after the date of issue of a probationary operating licence issued

Review by
Board

R.S.O. 1970,
c. 316

under subsection 14 and as soon after the expiration of the one year as is convenient to the Board, review under section 19 of *The Ontario Highway Transport Board Act* the certificate with respect to the licence and shall revoke the certificate or issue a new certificate approving the issue of an operating licence.

s. 6a,
enacted

7. The said Act is further amended by adding thereto the following section:

Where
certificate
revoked or
amended

6a. Where a certificate issued by the Board under section 6 is revoked or amended, the operating licence issued as a result of that certificate shall be revoked or amended accordingly, and the revocation or amendment of the licence shall be effective on the fifth day after the day notice of the revocation or amendment is mailed by registered mail addressed to the licensee at his last known address.

s. 7 (1),
amended

- 8.—(1) Subsection 1 of section 7 of the said Act, as re-enacted by the Statutes of Ontario, 1971, chapter 50, section 71, is amended by striking out "in the prescribed form" in the third line and inserting in lieu thereof "on the form provided therefor by the Ministry".

s. 7,
amended

- (2) The said section 7 is amended by adding thereto the following subsection:

Probationary
licence not
transferable

(1a) No probationary operating licence issued pursuant to an application under subsection 11 of section 6 is transferable.

s. 7 (2),
amended

- (3) Subsection 2 of the said section 7 is amended by inserting after "hearing" in the third line "as required by *The Ontario Highway Transport Board Act*".

s. 9 (1),
re-enacted

- 9.—(1) Subsection 1 of section 9 of the said Act, as re-enacted by the Statutes of Ontario, 1971, chapter 50, section 71, is repealed and the following substituted therefor:

Expiry of
licence

(1) An operating licence for which a day for expiry has not been fixed expires on the 1st day of July in each year or on the expiry of all vehicle licences issued pursuant to the operating licence unless before such date or such expiry, as the case may be, the holder of the operating licence has applied for and acquired one or more vehicle licences for the period immediately following such date or such expiry, as the case may be.

s. 9,
amended

- (2) The said section 9 is amended by adding thereto the following subsection:

(3) Subsections 1 and 2 do not apply to an operating licence that by its terms expires at the end of a specified term, upon a specified day or upon the occurrence of a specified event. Where subss. 1 and 2 do not apply

10.—(1) Section 10 of the said Act, as re-enacted by the Statutes of Ontario, 1971, chapter 50, section 71, is amended by adding thereto the following clause: s. 10, amended

(ba) where the past conduct of the applicant or licensee or, where the applicant or licensee is a corporation, of its officers or directors affords reasonable grounds for belief that the transportation service will not be operated in accordance with the law and with honesty and integrity.

(2) The said section 10 is further amended by striking out “or” at the end of clause *c*, by adding “or” at the end of clause *d* and by adding thereto the following clause: s. 10, amended

(e) where the licence was issued under subsection 1 of section 6, as a result of the application of subsection 9 of section 6, and the licensee ceases to hold any appropriate operating licence referred to in subsection 9 of section 6.

11. The said Act is further amended by adding thereto the following section: s. 11, enacted

11.—(1) A commercial cartage zone may be designated by the Minister from time to time in accordance with the recommendations of the Board. Designation of commercial cartage zones

(2) Where the Minister proposes to designate a commercial cartage zone or to vary the boundaries of a commercial cartage zone, he shall refer the proposal to the Board and the Board shall hold a public hearing and report thereon to the Minister with its recommendations. Referral to Board

(3) The Minister may, following receipt of the report and recommendations of the Board, under subsection 2, require the Board to hold a new public hearing of the whole or any part of the proposal and to report thereon to the Minister with its recommendations. Idem

(4) A commercial cartage zone shall not exceed one regional municipality, county or district. Limitation

(5) In determining whether to recommend the designation of a commercial cartage zone, the Board shall consider Matters for Board to consider

whether public necessity and convenience will be served thereby by taking into account the impact thereof on the users of for hire transportation services within the area under consideration and on the providers of such services and, in considering the impact on the providers of such services, the Board will take into account the impact on those operating exclusively within areas of the proposed zone to which this Act does not apply and those holding operating licences under this Act who would be affected thereby.

s. 12 (1),
re-enacted

- 12.**—(1) Subsection 1 of section 12 of the said Act, as re-enacted by the Statutes of Ontario, 1971, chapter 50, section 71, and amended by the Statutes of Ontario, 1973, chapter 166, section 5, is repealed and the following substituted therefor:

Issue of
vehicle
licence

(1) Subject to section 12c, the holder of an operating licence is entitled, upon application to the Minister on the form provided therefor by the Ministry and payment of the prescribed fee, to be issued vehicle licences by the Minister.

s. 12 (2),
re-enacted

- (2) Subsection 2 of the said section 12, as amended by the Statutes of Ontario, 1973, chapter 166, section 5, is repealed and the following substituted therefor:

Limit
on vehicle
licences

(2) Notwithstanding subsection 1, the holder of an operating licence is not entitled to be issued or to hold more vehicle licences than he has commercial vehicles registered in his name or leased in accordance with this Act and the regulations.

s. 12a,
re-enacted

- 13.** Section 12a of the said Act, as enacted by the Statutes of Ontario, 1971, chapter 50, section 71, is repealed and the following substituted therefor:

Vehicle
licence

12a.—(1) A vehicle licence authorizes the holder to operate a vehicle on which a licence plate is displayed as a public commercial vehicle providing the transportation designated in his operating licence.

Expiry of
vehicle
licence

(2) A vehicle licence expires at the end of the last day of the period for which the licence was issued.

Display of
licence
plate

(3) Subject to subsection 4, a licence plate shall not be displayed on a commercial motor vehicle unless the vehicle licence was issued for that vehicle.

Where
subs. 3 does
not apply

- (4) Subsection 3 does not apply if,

(a) the holder of the vehicle licence is within a class of licensees prescribed for the purposes of this subsection;

(b) the commercial motor vehicle is within a class of motor vehicles prescribed for the purposes of this subsection; or

(c) the operating licence under the authority of which the vehicle licence was issued is within a class prescribed for the purposes of this subsection.

(5) For the purposes of subsection 4, the Lieutenant Governor in Council may make regulations prescribing,

(a) classes of holders of operating licences;

(b) classes of commercial motor vehicles;

(c) classes of operating licences.

14. Subsection 2 of section 12*b* of the said Act, as enacted by the Statutes of Ontario, 1971, chapter 50, section 71, is repealed and the following substituted therefor:

s. 12*b* (2),
re-enacted

(2) No person shall operate a public commercial vehicle on a highway unless there is attached thereto, and exposed in a conspicuous position, a licence plate issued by the Minister to the operator of that vehicle showing the number of the vehicle licence issued for the current year.

Licence
plate

(3) Where a licence plate is exposed on a commercial vehicle, the holder of the operating licence under the authority of which that licence plate and corresponding vehicle licence was issued shall be deemed to be the operator of that vehicle for the purposes of this Act unless the licence plate was exposed thereon without his consent, the burden of proof of which shall be on the licensee.

Holder of
operating
licence
deemed
to be
operator

(4) The holder of an operating licence shall not operate a public commercial vehicle unless he is the registered owner of the vehicle under *The Highway Traffic Act* or he has entered into an agreement for a lease of the vehicle in accordance with this Act and the regulations.

Ownership
of vehicle

R.S.O. 1970,
c. 202

15. Section 12*c* of the said Act, as enacted by the Statutes of Ontario, 1971, chapter 50, section 71, is repealed and the following substituted therefor:

s. 12*c*,
re-enacted

12*c*. Subject to section 12*i*, the Minister may refuse to issue or may cancel a vehicle licence if the applicant or licensee is not, or ceases to be, the holder of an operating licence or ceases to comply with subsection 2 of section 12.

Refusal to
issue or
cancellation
of vehicle
licence

s. 12*f*,
amended

16. Section 12*f* of the said Act, as re-enacted by the Statutes of Ontario, 1973, chapter 166, section 7, is amended by striking out "in the prescribed form" in the third line and inserting in lieu thereof "on the form provided therefor by the Ministry".

s. 12*k*,
re-enacted

17. Section 12*k* of the said Act, as enacted by the Statutes of Ontario, 1971, chapter 50, section 71, is repealed and the following substituted therefor:

Form and
publication
of tariff

12*k*. A tariff of tolls shall be filed in a form satisfactory to the Board and published and maintained available to the public.

s. 12*m*,
repealed

18. Section 12*m* of the said Act, as enacted by the Statutes of Ontario, 1971, chapter 50, section 71, is repealed.

s. 12*n* (2-6),
re-enacted

19. Subsections 2 to 6 of section 12*n* of the said Act, as enacted by the Statutes of Ontario, 1971, chapter 50, section 71, are repealed and the following substituted therefor:

Contents

(2) A bill of lading shall contain such information as may be prescribed by regulation together with an acknowledgement of receipt by the carrier or the freight forwarder of the goods therein described indicating whether the goods were received in apparent good order and condition and an undertaking to carry the goods for delivery to the consignee or the person entitled to receive the goods and shall be signed in full by, or on behalf of, the issuing carrier or issuing freight forwarder and by the consignor as accepting the terms and conditions contained, or deemed to be contained, therein.

Signed
copy to be
retained

(3) A signed copy of the bill of lading shall be retained by the consignor and by the carrier.

Copy of
bill of
lading to
be carried
by driver

(4) Every driver operating a public commercial vehicle shall carry on each trip a copy of the bill of lading and shall produce it when required for inspection by a member of the Ontario Provincial Police Force or an officer of the Ministry.

Idem

(5) Where a carrier is transporting goods on behalf of a freight forwarder, the driver transporting the goods by public commercial vehicle shall carry on each trip a copy of the bill of lading issued by the freight forwarder and shall produce it when required for inspection by a member of the Ontario Provincial Police Force or an officer of the Ministry.

Carrier's
waybill
carried in
lieu of
bill of
lading

(6) Notwithstanding subsections 4 and 5, a carrier's waybill, containing such information as may be prescribed by regulation, may be carried by any driver operating a public commercial vehicle or transporting goods on behalf of a

freight forwarder and may be produced in lieu of a bill of lading when such is required for inspection by a member of the Ontario Provincial Police Force or an officer of the Ministry.

(7) Where any shipment of goods is carried on more than one vehicle, the carrier shall ensure that every part of the shipment is accompanied by a copy of the bill of lading or by a waybill mentioned in subsection 6. Carrier's responsibility

- 20.** Section 15*a* of the said Act, as enacted by the Statutes of Ontario, 1971, chapter 50, section 71, is repealed and the following substituted therefor: s. 15*a*, re-enacted

15*a*. Every driver of a public commercial vehicle on a highway shall carry or keep in a readily accessible place in the vehicle, the vehicle licence corresponding to the licence plate exposed on the vehicle together with a copy of the conditions set out in the operating licence under which the vehicle is being operated, which documents shall be produced upon the demand of a member of the Ontario Provincial Police Force or an officer of the Ministry. Vehicle licence, etc., to be carried by driver

- 21.** Clause *d* of subsection 3 of section 15*b* of the said Act, as re-enacted by the Statutes of Ontario, 1973, chapter 166, section 10, is repealed and the following substituted therefor: s. 15*b* (3) (*d*), re-enacted

(*d*) copies of any bills of lading or waybills,

- 22.** Subsection 1 of section 15*c* of the said Act, as enacted by the Statutes of Ontario, 1971, chapter 50, section 71, is amended by inserting after "vehicles" in the fourth line "or of the holder of a freight forwarder's licence relating to his business as a freight forwarder". s. 15*c* (1), amended

- 23.** Section 16 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 166, section 12, is repealed and the following substituted therefor: s. 16, re-enacted

16. Every person who contravenes any of the provisions of this Act or the regulations is guilty of an offence and on summary conviction, where a penalty for the contravention is not otherwise provided for herein, is liable to a fine of not less than \$150 and not more than \$1,500. Penalty

- 24.—**(1) Clause *a* of section 18 of the said Act, as re-enacted by the Statutes of Ontario, 1971, chapter 50, section 71, is repealed and the following substituted therefor: s. 18 (*a*), re-enacted

(a) prescribing classes of licences and the forms of licences.

s. 18,
amended

(2) the said section 18, as amended by the Statutes of Ontario, 1971, chapter 50, section 71, 1973, chapter 166, section 13 and 1975 (2nd Session), chapter 7, section 3, is further amended by adding thereto the following clauses:

(j) prescribing the form and contents of a waybill;

.

(t) governing the issue and renewal of operating licences and classes of operating licences;

(u) prescribing the qualifications of applicants for and holders of operating licences or any class or classes of operating licences;

(v) exempting holders of any class or classes of operating licences from any of the provisions of section 12j or 12n;

(w) prescribing terms which shall be incorporated into all leases referred to in subsection 4 of section 12b;

(x) prescribing procedures for the filing and obtaining of approval of leases for the purposes of subsection 4 of section 12b.

ss. 19, 20,
enacted

25. The said Act is further amended by adding thereto the following sections:

Policy
statements

19.—(1) The Lieutenant Governor in Council may by order from time to time issue policy statements setting out matters to be considered by the Board when determining questions of public necessity and convenience and the Board shall take such matters into consideration together with such other matters as the Board considers appropriate where the hearing or review is commenced after the policy statement is gazetted.

Publication

(2) An order made under subsection 1 shall be published in *The Ontario Gazette*.

Investigation
directed by
Minister

20.—(1) The Minister may direct the Board to examine and investigate such matters relating to transportation

policy as are referred to it by the Minister and the Board shall report thereon to the Minister.

(2) For the purposes of subsection 1, the Board may hold such hearings as it considers necessary. Hearings by Board

26. Schedules A and B to the said Act, as enacted by the Statutes of Ontario, 1971, chapter 50, section 71, are repealed. Schedules A, B, repealed

27.—(1) This Act, except section 3, subsections 2, 3 and 4 of section 6, subsection 2 of section 8, subsection 2 of section 10 and sections 19, 21 and 26, comes into force on the day it receives Royal Assent. Commence-ment

(2) Section 3 comes into force on the 1st day of August, 1979. Idem

(3) Subsections 2, 3 and 4 of section 6, subsection 2 of section 8, subsection 2 of section 10, and sections 19, 21 and 26 come into force on a day to be named by proclamation of the Lieutenant Governor. Idem

28. The short title of this Act is *The Public Commercial Vehicles Amendment Act, 1979*. Short title

An Act to amend
The Public Commercial Vehicles Act

1st Reading

May 15th, 1979

2nd Reading

June 19th, 1979

3rd Reading

June 19th, 1979

THE HON. J. W. SNOW
Minister of Transportation and
Communications

BILL 90

Government Bill

3RD SESSION, 31ST LEGISLATURE, ONTARIO
28 ELIZABETH II, 1979

**An Act to amend
The Highway Traffic Act**

THE HON. J. W. SNOW
Minister of Transportation and Communications

TORONTO

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EXPLANATORY NOTES

SECTION 1.—Subsection 1. The definition of driver now reads as follows:

7a. "driver" means a person who drives a motor vehicle on a highway.

The word "motor" is being deleted.

Subsection 2. The definition of "road-building machine" is recast and in the new version specifies several kinds of vehicles that are included in the definition and specifically excludes commercial motor vehicles.

BILL 90

1979

An Act to amend The Highway Traffic Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Paragraph 7a of subsection 1 of section 1 of *The Highway Traffic Act*, being chapter 202 of the Revised Statutes of Ontario, 1970, as enacted by the Statutes of Ontario, 1973, chapter 167, section 1, is repealed and the following substituted therefor:

s. 1 (1) par. 7a,
re-enacted

7a. “driver” means a person who drives a vehicle on a highway.

- (2) Paragraph 26 of subsection 1 of the said section 1 is repealed and the following substituted therefor:

s. 1 (1) par. 26,
re-enacted

26. “road-building machine” means a self-propelled vehicle of a design commonly used in the construction or maintenance of highways, including but not limited to,

- i. asphalt spreaders, concrete paving or finishing machines, motor graders, rollers, tractor-dozers and motor scrapers,
- ii. tracked and wheeled tractors of all kinds while equipped with mowers, post-hole diggers, compactors, weed spraying equipment, snow blowers and snow plows, front-end loaders, back-hoes or rock drills, and
- iii. power shovels on tracks and drag lines on tracks,

but not including a commercial motor vehicle.

s. 14 (1),
re-enacted

- 2.—(1) Subsection 1 of section 14 of the said Act is repealed and the following substituted therefor:

As to
carrying
licences and
production on
demand

(1) Every operator of a motor vehicle shall carry his licence with him at all times while he is in charge of a motor vehicle and shall surrender the licence for inspection upon the demand of a constable or officer appointed for carrying out the provisions of this Act.

s. 14 (2),
amended

- (2) Subsection 2 of the said section 14 is amended by striking out “produce” in the first line and inserting in lieu thereof “surrender”.

s. 57a,
amended

3. Section 57a of the said Act, as enacted by the Statutes of Ontario, 1975 (2nd Session), chapter 6, section 1, and amended by the Statutes of Ontario, 1976, chapter 37, section 6, is further amended by adding thereto the following subsection:

Where
subs. 1
does not
apply

(1a) Subsection 1 does not apply to an operator of a vehicle of a class or type prescribed by the regulations who produces evidence that the vehicle has met the inspection requirements and performance standards of a reciprocating province or state designated by the regulations.

s. 57c,
amended

4. Section 57c of the said Act, as enacted by the Statutes of Ontario, 1975 (2nd Session), chapter 6, section 1, is amended by adding thereto the following clause:

(aa) designating reciprocating provinces and states and prescribing types and classes of vehicles for the purposes of subsection 1a of section 57a.

s. 65 (1) (b),
amended

5. Clause b of subsection 1 of section 65 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 65, section 2, is amended by striking out “road maintenance” in the first line and inserting in lieu thereof “road-building”.

s. 67 (2),
amended

6. Subsection 2 of section 67 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 65, section 1, is amended by striking out “commercial” in the second line and in the sixth line.

s. 74 (1),
amended

- 7.—(1) Subsection 1 of section 74 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 65, section 3, is amended by striking out “the least of” in the fourth line.

s. 74 (2),
amended

- (2) Subsection 2 of the said section 74 as amended by the Statutes of Ontario, 1978, chapter 4, section 16, is further amended by inserting after “least” in the second line “of the weights referred to in subsection 1”.

SECTION 2. The amendments clarify the wording of the provisions to make clear that a driver's licence is to be handed to a constable for inspection.

SECTION 3. Section 57*a* of the Act requires that inspection stickers be displayed on certain classes of vehicles. The new provision provides that vehicles owned by persons not residing in Ontario but meeting inspection requirements of the state within which they reside are exempt from the requirement to display the sticker. This applies where the other state has a reciprocating exemption.

SECTION 4. This is complementary to section 3 of the Bill. The effect is to permit reciprocating states to be designated by regulation.

SECTION 5. Certain vehicles are exempt from the width restrictions imposed by the Act. The amendment clarifies that "road-building machines" are within the exempted vehicles. This is to be read with the new definition of "road-building machine" being re-enacted by subsection 2 of section 1 of the Bill.

SECTION 6. The provision of the Act now prohibits the driving of a commercial motor vehicle or a trailer on a highway that is not properly secured, loaded and covered. The amendment extends the prohibition to include an ordinary automobile.

SECTION 7. The amendment is of a housekeeping nature to clarify meaning.

SECTION 8. The Act has weight restrictions with respect to vehicles using the highways. The amendment excludes fire apparatus from these restrictions.

SECTION 9. The Act now permits a police officer to require an overloaded vehicle to be partly unloaded. The provision as recast permits an officer to require that a load be redistributed where axle weight restrictions are being contravened.

SECTION 10. Section 96 of the Act sets out driving rules to be followed when encountering traffic signals. The new provision provides that emergency vehicles may proceed through a red light under certain specified conditions. "Emergency vehicle" is defined.

8. Subsection 8 of section 77 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 65, section 3, is amended by striking out “or” at the end of clause *a*, by adding “or” at the end of clause *b* and by adding thereto the following clause:

(*c*) fire apparatus.

- 9.—(1) Subsection 5 of section 78 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 65, section 3, is repealed and the following substituted therefor:

(5) Where it is found that the gross vehicle weight, axle unit weight or axle group weight of any vehicle or combination of vehicles is in excess of the limits permitted under this Act or the regulations, or the permit issued for the vehicle or combination of vehicles, the police officer or officer appointed for carrying out the provisions of this Act may require the driver to redistribute or remove so much of the load as is necessary to ensure compliance with this Act, the regulations and the permit.

- (2) Clause *b* of subsection 6 of the said section 78 is repealed and the following substituted therefor:

(*b*) when required, pursuant to subsection 5, to redistribute or remove part of a load refuses or fails to do so or to make arrangements to do so; or

.

- 10.—(1) Subsection 1 of section 96 of the said Act is repealed and the following substituted therefor:

- (1) In this section,

Inter-
pretation

(*a*) “emergency vehicle” means,

- (i) a fire department vehicle while proceeding to a fire or answering, but not returning from, a fire alarm call, or
- (ii) a vehicle while used by a person in the lawful performance of his duties as a police officer;

(*b*) “intersection” includes any portion of a highway distinctly indicated as a crossing place for pedestrians by lines or other markings on the surface of the highway.

s. 96,
amended

- (2) The said section 96, as amended by the Statutes of Ontario, 1974, chapter 123, section 25, 1977, chapter 54, section 13, 1978, chapter 90, section 11, is further amended by adding thereto the following subsection:

Exception
to subs. 5

(5a) Notwithstanding subsection 5, where an emergency vehicle, upon which a siren is continuously sounding and upon which a lamp located on the roof of the vehicle is producing intermittent flashes of red light, is brought to a full stop at a red signal-light, the driver of the emergency vehicle may, after ascertaining that such movement can be made in safety, proceed through the intersection without waiting for a green signal-light to be shown.

s. 96a,
enacted

11. The said Act is amended by adding thereto the following section:

Portable
signal-
lights

96a.—(1) Notwithstanding subsection 20 of section 96, during construction or maintenance activities on or adjacent to a highway, a portable lane control signal system may be operated on the highway in accordance with the regulations by the authority having jurisdiction and control of the highway, or any person authorized by that authority.

Driver rules,
on green

(2) Where a green signal-light is shown by a portable lane control signal system, the driver or operator of a vehicle or car of an electric railway that is approaching and facing the light may proceed.

red

(3) Where a red signal-light is shown by a portable lane control signal system, every driver or operator of a vehicle or car of an electric railway that is approaching and facing the light shall bring his vehicle or car to a full stop at a sign or marking on the roadway indicating where the stop shall be made or, in the absence of any such sign or marking, at the red signal-light and shall not proceed until a green light is shown.

amber

(4) Where an amber signal-light is shown by a portable lane control signal system, every driver or operator of a vehicle or car of an electric railway that is approaching and facing the light shall bring his vehicle or car to a full stop at a sign or marking on the roadway indicating where the stop shall be made or, in the absence of any such sign or marking, at the amber signal-light, provided that, where a vehicle or car cannot be brought to a stop at an amber signal-light in safety, it may proceed with caution.

SECTION 11. The new provisions provide for the use of portable traffic lights where there is construction on or by a highway that may interfere with ordinary traffic.

SECTION 12. The provisions being repealed require log books issued by the Ministry to be kept by operators of school buses. There was a fee charged for these books. With the recast provision, the type of book will be prescribed and it may be required that the log book for a vehicle be kept in the vehicle. There will no longer be a provision for a fee.

SECTION 13. Self-explanatory.

(5) No person shall without lawful authority remove, deface or otherwise interfere with a portable lane control signal system. Removing, etc., lane control device

(6) The Lieutenant Governor in Council may make regulations, Regulations re portable lane control devices

(a) prescribing the standards or specifications of portable lane control signal systems;

(b) prescribing the location where portable lane control signal systems may be erected;

(c) prescribing standards for maintaining portable lane control signal systems.

12. Clauses *h* and *i* of subsection 6 of section 120 of the said Act, as enacted by the Statutes of Ontario, 1977, chapter 54, section 14, are repealed and the following substituted therefor: s. 120 (6) (h), re-enacted, s. 120 (6) (i), repealed

(h) requiring the retention of prescribed books within vehicles or any class or type thereof and prescribing the information to be contained and the entries to be recorded in the books.

13. The said Act is further amended by adding thereto the following section: s. 124a, enacted

124a. No person shall deposit snow or ice on a roadway without permission in writing so to do from the Ministry or the road authority responsible for the maintenance of the road. Deposit of snow on roadway

14. This Act comes into force on the day it receives Royal Assent. Commencement

15. The short title of this Act is *The Highway Traffic Amendment Act, 1979*. Short title

An Act to amend
The Highway Traffic Act

1st Reading

May 15th, 1979

2nd Reading

3rd Reading

THE HON. J. W. SNOW
Minister of Transportation and
Communications

(Government Bill)

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3RD SESSION, 31ST LEGISLATURE, ONTARIO
28 ELIZABETH II, 1979

Regulation Bill

**An Act to amend
The Highway Traffic Act**

THE HON. J. W. SNOW
Minister of Transportation and Communications

(Reprinted as amended by the Committee of the Whole House)

EXPLANATORY NOTES

SECTION 1.—Subsection 1. The definition of driver now reads as follows:

7a. "driver" means a person who drives a motor vehicle on a highway.

The word "motor" is being deleted.

Subsection 2. The definition of "road-building machine" is recast and in the new version specifies several kinds of vehicles that are included in the definition and specifically excludes commercial motor vehicles.

BILL 90

1979

An Act to amend The Highway Traffic Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Paragraph 7a of subsection 1 of section 1 of *The Highway Traffic Act*, being chapter 202 of the Revised Statutes of Ontario, 1970, as enacted by the Statutes of Ontario, 1973, chapter 167, section 1, is repealed and the following substituted therefor:

s. 1 (1) par. 7a,
re-enacted

7a. “driver” means a person who drives a vehicle on a highway.

- (2) Paragraph 26 of subsection 1 of the said section 1 is repealed and the following substituted therefor:

s. 1 (1) par. 26,
re-enacted

26. “road-building machine” means a self-propelled vehicle of a design commonly used in the construction or maintenance of highways, including but not limited to,

- i. asphalt spreaders, concrete paving or finishing machines, motor graders, rollers, tractor-dozers and motor scrapers,
- ii. tracked and wheeled tractors of all kinds while equipped with mowers, post-hole diggers, compactors, weed spraying equipment, snow blowers and snow plows, front-end loaders, back-hoes or rock drills, and
- iii. power shovels on tracks and drag lines on tracks,

but not including a commercial motor vehicle.

s. 14 (1),
re-enacted

- 2.**—(1) Subsection 1 of section 14 of the said Act is repealed and the following substituted therefor:

As to
carrying
licences and
production on
demand

(1) Every operator of a motor vehicle shall carry his licence with him at all times while he is in charge of a motor vehicle and shall surrender the licence for reasonable inspection upon the demand of a constable or officer appointed for carrying out the provisions of this Act.

s. 14 (2),
amended

(2) Subsection 2 of the said section 14 is amended by striking out “produce” in the first line and inserting in lieu thereof “surrender”.

s. 57a,
amended

- 3.** Section 57a of the said Act, as enacted by the Statutes of Ontario, 1975 (2nd Session), chapter 6, section 1, and amended by the Statutes of Ontario, 1976, chapter 37, section 6, is further amended by adding thereto the following subsection:

Where
subs. 1
does not
apply

(1a) Subsection 1 does not apply to an operator of a vehicle of a class or type prescribed by the regulations who produces evidence that the vehicle has met the inspection requirements and performance standards of a reciprocating province or state designated by the regulations.

s. 57c,
amended

- 4.** Section 57c of the said Act, as enacted by the Statutes of Ontario, 1975 (2nd Session), chapter 6, section 1, is amended by adding thereto the following clause:

(aa) designating reciprocating provinces and states and prescribing types and classes of vehicles for the purposes of subsection 1a of section 57a.

s. 65 (1) (b),
amended

- 5.** Clause b of subsection 1 of section 65 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 65, section 2, is amended by striking out “road maintenance” in the first line and inserting in lieu thereof “road-building”.

s. 67 (2),
amended

- 6.** Subsection 2 of section 67 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 65, section 1, is amended by striking out “commercial” in the second line and in the sixth line.

s. 74 (1),
amended

- 7.**—(1) Subsection 1 of section 74 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 65, section 3, is amended by striking out “the least of” in the fourth line.

s. 74 (2),
amended

(2) Subsection 2 of the said section 74 as amended by the Statutes of Ontario, 1978, chapter 4, section 16, is further amended by inserting after “least” in the second line “of the weights referred to in subsection 1”.

SECTION 2. The amendments clarify the wording of the provisions to make clear that a driver's licence is to be handed to a constable for inspection.

SECTION 3. Section 57a of the Act requires that inspection stickers be displayed on certain classes of vehicles. The new provision provides that vehicles owned by persons not residing in Ontario but meeting inspection requirements of the state within which they reside are exempt from the requirement to display the sticker. This applies where the other state has a reciprocating exemption.

SECTION 4. This is complementary to section 3 of the Bill. The effect is to permit reciprocating states to be designated by regulation.

SECTION 5. Certain vehicles are exempt from the width restrictions imposed by the Act. The amendment clarifies that "road-building machines" are within the exempted vehicles. This is to be read with the new definition of "road-building machine" being re-enacted by subsection 2 of section 1 of the Bill.

SECTION 6. The provision of the Act now prohibits the driving of a commercial motor vehicle or a trailer on a highway that is not properly secured, loaded and covered. The amendment extends the prohibition to include an ordinary automobile.

SECTION 7. The amendment is of a housekeeping nature to clarify meaning.

SECTION 8. The Act has weight restrictions with respect to vehicles using the highways. The amendment excludes fire apparatus from these restrictions.

SECTION 9. The Act now permits a police officer to require an overloaded vehicle to be partly unloaded. The provision as recast permits an officer to require that a load be redistributed where axle weight restrictions are being contravened.

SECTION 10. Section 96 of the Act sets out driving rules to be followed when encountering traffic signals. The new provision provides that emergency vehicles may proceed through a red light under certain specified conditions. "Emergency vehicle" is defined.

8. Subsection 8 of section 77 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 65, section 3, is amended by striking out "or" at the end of clause *a*, by adding "or" at the end of clause *b* and by adding thereto the following clause:

(c) fire apparatus.

- 9.—(1) Subsection 5 of section 78 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 65, section 3, is repealed and the following substituted therefor:

(5) Where it is found that the gross vehicle weight, axle unit weight or axle group weight of any vehicle or combination of vehicles is in excess of the limits permitted under this Act or the regulations, or the permit issued for the vehicle or combination of vehicles, the police officer or officer appointed for carrying out the provisions of this Act may require the driver to redistribute or remove so much of the load as is necessary to ensure compliance with this Act, the regulations and the permit.

- (2) Clause *b* of subsection 6 of the said section 78 is repealed and the following substituted therefor:

(b) when required, pursuant to subsection 5, to redistribute or remove part of a load refuses or fails to do so or to make arrangements to do so; or

.

- 10.—(1) Subsection 1 of section 96 of the said Act is repealed and the following substituted therefor:

- (1) In this section,

Interpretation

(a) "emergency vehicle" means,

(i) a fire department vehicle while proceeding to a fire or answering, but not returning from, a fire alarm call,

(ii) a vehicle while used by a person in the lawful performance of his duties as a police officer, or

(iii) an ambulance while responding to an emergency call or being used to transport a patient or injured person in an emergency situation;

(b) "intersection" includes any portion of a highway distinctly indicated as a crossing place for pedestrians by lines or other markings on the surface of the highway.

s. 96,
amended

(2) The said section 96, as amended by the Statutes of Ontario, 1974, chapter 123, section 25, 1977, chapter 54, section 13, 1978, chapter 90, section 11, is further amended by adding thereto the following subsection:

Exception
to subs. 5

(5a) Notwithstanding subsection 5, where an emergency vehicle, upon which a siren is continuously sounding and upon which a lamp is producing intermittent flashes of red light visible from all directions, is brought to a full stop at a red signal-light, the driver of the emergency vehicle may, after ascertaining that such movement can be made in safety, proceed through the intersection without waiting for a green signal-light to be shown.

s. 96a,
enacted

11. The said Act is amended by adding thereto the following section:

Portable
signal-
lights

96a.—(1) Notwithstanding subsection 20 of section 96, during construction or maintenance activities on or adjacent to a highway, a portable lane control signal system may be operated on the highway in accordance with the regulations by the authority having jurisdiction and control of the highway, or any person authorized by that authority.

Driver rules,
on green

(2) Where a green signal-light is shown by a portable lane control signal system, the driver or operator of a vehicle or car of an electric railway that is approaching and facing the light may proceed.

red



(3) Where a red signal-light is shown by a portable lane control signal system, every driver or operator of a vehicle or car of an electric railway that is approaching and facing the light shall bring his vehicle or car to a full stop at a sign or marking on the roadway indicating where the stop shall be made or, in the absence of any such sign or marking, at the red signal-light and shall not proceed until a green light is shown.

amber

(4) Where an amber signal-light is shown by a portable lane control signal system, every driver or operator of a vehicle or car of an electric railway that is approaching and

SECTION 11. The new provisions provide for the use of portable traffic lights where there is construction on or by a highway that may interfere with ordinary traffic.

SECTION 12. The provisions being repealed require log books issued by the Ministry to be kept by operators of school buses. There was a fee charged for these books. With the recast provision, the type of book will be prescribed and it may be required that the log book for a vehicle be kept in the vehicle. There will no longer be a provision for a fee.

 In the provisions of the Act being amended, the effect will be to provide that school buses may be used to transport mentally retarded adults and many of the features that apply to those buses while transporting children will apply to them while transporting the adults. 

facing the light shall bring his vehicle or car to a full stop at a sign or marking on the roadway indicating where the stop shall be made or, in the absence of any such sign or marking, at the amber signal-light, provided that, where a vehicle or car cannot be brought to a stop at an amber signal-light in safety, it may proceed with caution.

(5) No person shall without lawful authority remove, deface or otherwise interfere with a portable lane control signal system.

Removing,
etc., lane
control
device

(6) The Lieutenant Governor in Council may make regulations,

Regulations
re portable
lane control
devices

(a) prescribing the standards or specifications of portable lane control signal systems;

(b) prescribing the location where portable lane control signal systems may be erected;

(c) prescribing standards for maintaining portable lane control signal systems.

12.—(1) Subsection 1 of section 120 of the said Act, as re-enacted by the Statutes of Ontario, 1974, chapter 123, section 29, is amended by inserting after “children” in the second line “or mentally retarded adults” and by inserting after “school” in the second line “or a training centre”.

s. 120 (1),
amended

(2) Subsection 3 of the said section 120, as re-enacted by the Statutes of Ontario, 1975, chapter 64, section 1, is amended by inserting after “children” in the third line “or mentally retarded adults” and by inserting after “children” in the eighth line “or mentally retarded adults”.

s. 120 (3),
amended


(3) Subsection 5 of the said section 120 is amended by inserting after “children” in the fourth line “or mentally retarded adults” and by adding at the end thereof “or a training centre”.

s. 120 (5),
amended

(4) Subsection 6 of the said section 120, as amended by the Statutes of Ontario, 1974, chapter 123, section 29, 1975, chapter 64, section 1 and 1977, chapter 54, section 14, is further amended by adding at the end of clause *a* “or for transporting mentally retarded adults to and from a training centre”, and by striking out clauses *h* and *i* and inserting in lieu thereof the following clause:

s. 120 (6),
amended

(h) requiring the retention of prescribed books within vehicles or any class or type thereof and prescribing

the information to be contained and the entries to be recorded in the books. 

s. 124a,
enacted

- 13.** The said Act is further amended by adding thereto the following section:

Deposit
of snow
on roadway

124a. No person shall deposit snow or ice on a roadway without permission in writing so to do from the Ministry or the road authority responsible for the maintenance of the road.

Commence-
ment

- 14.** This Act comes into force on the day it receives Royal Assent.

Short title

- 15.** The short title of this Act is *The Highway Traffic Amendment Act, 1979*.

SECTION 13. Self-explanatory.

An Act to amend
The Highway Traffic Act

1st Reading

May 15th, 1979

2nd Reading

June 5th, 1979

3rd Reading

THE HON. J. W. SNOW
Minister of Transportation and
Communications

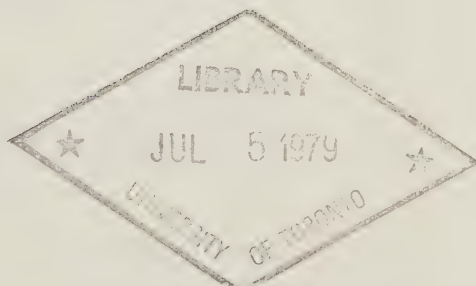
(Reprinted as amended by the
Committee of the Whole House)

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3RD SESSION, 31ST LEGISLATURE, *F* ONTARIO
28 ELIZABETH II, 1979 *Legislative Ass.*

**An Act to amend
The Highway Traffic Act**

THE HON. J. W. SNOW
Minister of Transportation and Communications



BILL 90

1979

An Act to amend The Highway Traffic Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Paragraph 7a of subsection 1 of section 1 of *The Highway Traffic Act*, being chapter 202 of the Revised Statutes of Ontario, 1970, as enacted by the Statutes of Ontario, 1973, chapter 167, section 1, is repealed and the following substituted therefor:

7a. “driver” means a person who drives a vehicle on a highway.

- (2) Paragraph 26 of subsection 1 of the said section 1 is repealed and the following substituted therefor:

26. “road-building machine” means a self-propelled vehicle of a design commonly used in the construction or maintenance of highways, including but not limited to,

- i. asphalt spreaders, concrete paving or finishing machines, motor graders, rollers, tractor-dozers and motor scrapers,
- ii. tracked and wheeled tractors of all kinds while equipped with mowers, post-hole diggers, compactors, weed spraying equipment, snow blowers and snow plows, front-end loaders, back-hoes or rock drills, and
- iii. power shovels on tracks and drag lines on tracks,

but not including a commercial motor vehicle.

s. 14 (1),
re-enacted

- 2.—(1) Subsection 1 of section 14 of the said Act is repealed and the following substituted therefor:

As to
carrying
licences and
production on
demand

(1) Every operator of a motor vehicle shall carry his licence with him at all times while he is in charge of a motor vehicle and shall surrender the licence for reasonable inspection upon the demand of a constable or officer appointed for carrying out the provisions of this Act.

s. 14 (2),
amended

(2) Subsection 2 of the said section 14 is amended by striking out "produce" in the first line and inserting in lieu thereof "surrender".

s. 57a,
amended

3. Section 57a of the said Act, as enacted by the Statutes of Ontario, 1975 (2nd Session), chapter 6, section 1, and amended by the Statutes of Ontario, 1976, chapter 37, section 6, is further amended by adding thereto the following subsection:

Where
subs. 1
does not
apply

(1a) Subsection 1 does not apply to an operator of a vehicle of a class or type prescribed by the regulations who produces evidence that the vehicle has met the inspection requirements and performance standards of a reciprocating province or state designated by the regulations.

s. 57c,
amended

4. Section 57c of the said Act, as enacted by the Statutes of Ontario, 1975 (2nd Session), chapter 6, section 1, is amended by adding thereto the following clause:

(aa) designating reciprocating provinces and states and prescribing types and classes of vehicles for the purposes of subsection 1a of section 57a.

s. 65 (1) (b),
amended

5. Clause b of subsection 1 of section 65 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 65, section 2, is amended by striking out "road maintenance" in the first line and inserting in lieu thereof "road-building".

s. 67 (2),
amended

6. Subsection 2 of section 67 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 65, section 1, is amended by striking out "commercial" in the second line and in the sixth line.

s. 74 (1),
amended

- 7.—(1) Subsection 1 of section 74 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 65, section 3, is amended by striking out "the least of" in the fourth line.

s. 74 (2),
amended

(2) Subsection 2 of the said section 74 as amended by the Statutes of Ontario, 1978, chapter 4, section 16, is further amended by inserting after "least" in the second line "of the weights referred to in subsection 1".

8. Subsection 8 of section 77 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 65, section 3, is amended by striking out "or" at the end of clause *a*, by adding "or" at the end of clause *b* and by adding thereto the following clause:

(*c*) fire apparatus.

- 9.—(1) Subsection 5 of section 78 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 65, section 3, is repealed and the following substituted therefor:

(5) Where it is found that the gross vehicle weight, axle unit weight or axle group weight of any vehicle or combination of vehicles is in excess of the limits permitted under this Act or the regulations, or the permit issued for the vehicle or combination of vehicles, the police officer or officer appointed for carrying out the provisions of this Act may require the driver to redistribute or remove so much of the load as is necessary to ensure compliance with this Act, the regulations and the permit.

- (2) Clause *b* of subsection 6 of the said section 78 is repealed and the following substituted therefor:

(*b*) when required, pursuant to subsection 5, to redistribute or remove part of a load refuses or fails to do so or to make arrangements to do so; or

.

- 10.—(1) Subsection 1 of section 96 of the said Act is repealed and the following substituted therefor:

- (1) In this section,

Interpre-
tation

(*a*) "emergency vehicle" means,

- (i) a fire department vehicle while proceeding to a fire or answering, but not returning from, a fire alarm call,
- (ii) a vehicle while used by a person in the lawful performance of his duties as a police officer, or
- (iii) an ambulance while responding to an emergency call or being used to transport a patient or injured person in an emergency situation;

(b) "intersection" includes any portion of a highway distinctly indicated as a crossing place for pedestrians by lines or other markings on the surface of the highway.

s. 96,
amended

- (2) The said section 96, as amended by the Statutes of Ontario, 1974, chapter 123, section 25, 1977, chapter 54, section 13, 1978, chapter 90, section 11, is further amended by adding thereto the following subsection:

Exception
to subs. 5

(5a) Notwithstanding subsection 5, where an emergency vehicle, upon which a siren is continuously sounding and upon which a lamp is producing intermittent flashes of red light visible from all directions, is brought to a full stop at a red signal-light, the driver of the emergency vehicle may, after ascertaining that such movement can be made in safety, proceed through the intersection without waiting for a green signal-light to be shown.

s. 96a,
enacted

11. The said Act is amended by adding thereto the following section:

Portable
signal-
lights

96a.—(1) Notwithstanding subsection 20 of section 96, during construction or maintenance activities on or adjacent to a highway, a portable lane control signal system may be operated on the highway in accordance with the regulations by the authority having jurisdiction and control of the highway, or any person authorized by that authority.

Driver rules,
on green

(2) Where a green signal-light is shown by a portable lane control signal system, the driver or operator of a vehicle or car of an electric railway that is approaching and facing the light may proceed.

red

(3) Where a red signal-light is shown by a portable lane control signal system, every driver or operator of a vehicle or car of an electric railway that is approaching and facing the light shall bring his vehicle or car to a full stop at a sign or marking on the roadway indicating where the stop shall be made or, in the absence of any such sign or marking, at the red signal-light and shall not proceed until a green light is shown.

amber

(4) Where an amber signal-light is shown by a portable lane control signal system, every driver or operator of a vehicle or car of an electric railway that is approaching and

facing the light shall bring his vehicle or car to a full stop at a sign or marking on the roadway indicating where the stop shall be made or, in the absence of any such sign or marking, at the amber signal-light, provided that, where a vehicle or car cannot be brought to a stop at an amber signal-light in safety, it may proceed with caution.

(5) No person shall without lawful authority remove, deface or otherwise interfere with a portable lane control signal system. Removing, etc., lane control device

(6) The Lieutenant Governor in Council may make regulations, Regulations re portable lane control devices

(a) prescribing the standards or specifications of portable lane control signal systems;

(b) prescribing the location where portable lane control signal systems may be erected;

(c) prescribing standards for maintaining portable lane control signal systems.

12.—(1) Subsection 1 of section 120 of the said Act, as re-enacted by the Statutes of Ontario, 1974, chapter 123, section 29, is amended by inserting after "children" in the second line "or mentally retarded adults" and by inserting after "school" in the second line "or a training centre". s. 120 (1), amended

(2) Subsection 3 of the said section 120, as re-enacted by the Statutes of Ontario, 1975, chapter 64, section 1, is amended by inserting after "children" in the third line "or mentally retarded adults" and by inserting after "children" in the eighth line "or mentally retarded adults". s. 120 (3), amended

(3) Subsection 5 of the said section 120 is amended by inserting after "children" in the fourth line "or mentally retarded adults" and by adding at the end thereof "or a training centre". s. 120 (5), amended

(4) Subsection 6 of the said section 120, as amended by the Statutes of Ontario, 1974, chapter 123, section 29, 1975, chapter 64, section 1 and 1977, chapter 54, section 14, is further amended by adding at the end of clause *a* "or for transporting mentally retarded adults to and from a training centre", and by striking out clauses *h* and *i* and inserting in lieu thereof the following clause: s. 120 (6), amended

(*h*) requiring the retention of prescribed books within vehicles or any class or type thereof and prescribing

the information to be contained and the entries to be recorded in the books.

s. 124*a*,
enacted

- 13.** The said Act is further amended by adding thereto the following section:

Deposit
of snow
on roadway

124*a*. No person shall deposit snow or ice on a roadway without permission in writing so to do from the Ministry or the road authority responsible for the maintenance of the road.

Commence-
ment

- 14.** This Act comes into force on the day it receives Royal Assent.

Short title

- 15.** The short title of this Act is *The Highway Traffic Amendment Act, 1979*.

An Act to amend
The Highway Traffic Act

1st Reading

May 15th, 1979

2nd Reading

June 5th, 1979

3rd Reading

June 19th, 1979

THE HON. J. W. SNOW
Minister of Transportation and
Communications



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